1084

R. C. O.

Proceedings

1816.

3229

Wednesday 7th January 1818.

At a Court of the Foujdarree Udalut

Present

Andrew Scott Esqr.
Edward Croft Greenway Esqr.
George Stratton Esqr. } Judges

GV
G.C.G
M

Read letter, dated the 20th ultimo, from the First Judge of Circuit on the Western Division with copy of North Malabar calendar, 4th Quarterly Sessions of 1817.

Vide order No. 627. of 1817.

The Court are desirous to have before them a copy of the Tuleas passed in case No. 7 of the foregoing Calendar wherein it is stated that the Prisoner who was charged with having murdered a person by beating him on the head with a Hedgeroo, was found guilty, and sentenced under Regd. to three years' imprisonment and hard labour.

In case No. 8 of the Calendar the Prisoner is stated to have been committed by the Judge of Circuit presiding at the 3d Quarterly Sessions of 1817. on a charge of perjury; in that he had deposed that, on a certain night, when his house

7th January 1818.

and set on fire, two persons came there and helped to put out the fire and that he had communicated to the aforesaid persons his suspicion that the Borders Irrawaddees had set fire to his house."

According to the foregoing Abstract of the charge the commitment in this case could scarce be have been made without a due attention to the nature of perjury as defined in the Regulations; since the falsehood is alleged to have been uttered only in support of a "suspicion" entertained by the Accused and could not therefore have been upon a present material to the issue of any judicial proceeding.

Ordered that extract of these proceedings be sent to the Provincial Court of Circuit in the Western Division, for the information and guidance of the Judges who presided at the 3d Quarterly Sessions of 1817. and that they be by precept commanded to send up copy of the Letters praised in No 7 of the calendar aforesaid within five days from the date of the receipt of the precept.

Sent following Precept No 7

Read letter, dated the 23d ultimo, from the Secretary to Government in the Judicial Department, transmitting copy of letter received from

7th January 1818.

from the Provincial Judge in the Zilla of Dacca Jellasore in reply to a circular letter requiring him to report whether any prisoners were under his custody otherwise than in due course of law.

[Here enter No 636. of 1817.]

The Second, third and fourth Prisoners mentioned in the communication from the Provincial Judge of Dacca Jellasore were sentenced, under clause 5th Section II Regulation XV of 1803, to be detained in custody until they should give sufficient security for their future good behaviour and appearance when required, and it does not clearly appear, therefore, how the several prisoners in question can be said to have been brought under the custody of the Provincial Judge otherwise than in due course of law.

The Court observe, however, that although, in each of the three cases abovementioned, the period fixed for appearance when required was twelve calendar months, one of the prisoners, Peiro nayaram Sherwagar, has been 17 years in jail. This long period of confinement is evidently contrary to the intention of the Court of Circuit in fixing the above term of twelve calendar months, since the object of the required security must be consid-

dered

be attained

desired to ~~be discharged~~ by the detention of the prisoner confinement for the period therein prescribed.

The Court therefore direct that the said prisoner Yusuf-ooddeen Sherayar as well as the Prisoner Vencadasamy, who was sentenced on the 29th April 1816 to be released on giving security for good behaviour and appearance when required during the period of twelve calendar months, be forthwith liberated from prison and that the Criminal Judge be careful to observe the rule here laid down in all similar cases.

The fifth prisoner, Taheer-ood-deen, is represented to be detained in custody under a warrant dated the 20th August 1817 issued by the first Assistant Magistrate until he gives security to the extent of 50 Rupees, for his future good conduct.

The sentence so passed by the first Assistant Magistrate is not authorized by any existing Regulation and the Court are of opinion that as the sentence was manifestly illegal, the Criminal Judge should have declined to receive the Prisoner into his gaol; but whatever doubt might have been entertained by the Criminal Judge as to his discretionary powers in this respect, it was plainly incumbent upon him to discharge the prisoner

from

2. 4.16.

7th January 1818.

from jail on the expiration of fifteen days or one months, according as the offence for which the Prisoner was ordered to be confined might be punishable under Section XXXII or Section XXXIII. Regulation IX. of 1816. The Court direct that the said Prisoner, Taheer-ood-deen, be forthwith set at liberty.

Ordered that extract of these proceedings be sent for the information and guidance of the Criminal Judge in the Zilla of Vedachellum, and that he be desired to communicate to the First Assistant Magistrate in the same Zilla such part of these proceedings as concerns that officer for his information and future guidance.

/Sent following letter &c./

Read letter, dated the 12th instant from the Criminal Judge in the Zilla of Chingulpet requesting that he may be furnished with copy of the warrant issued for the imprisonment of one Taheer Mahomed, who was forwarded to the Zilla of Chingulpet in 1804 by the Collector of the Southern Division of Canara under sentence of banishment.

/Here order No. 634 of 1817./

Read also letter dated the 2d instant,

from

be attained

dered to [illegible] by the detention of the
prisoner in confinement for the period thereinafter prescribed.
The Court therefore direct that the said prisoner Ram-
rayeram Sheravjee as well as the Prisoner Veeradattum-
mal, who was sentenced on the 29th April 1816 to be
released on his entering security for good behaviour
and appearance when required during the period
of twelve calendar months, be forthwith liberated
from prison and that the Criminal Judge be careful
to observe the rule here laid down in all similar cases.

The fifth prisoner, Takeer-ood-deen, is
represented to be detained in custody under a warrant
dated the 20th August 1817 issued by the first Assis-
tant Magistrate until he gives security to the extent
of 50 Rupees, for his future good conduct.

The sentence so passed by the first
Assistant Magistrate is not authorized by any exis-
ting Regulation and the Court are of opinion that,
as the sentence was manifestly illegal, the Criminal
Judge should have declined to receive the Prisoner
into his jail; but whatever doubts might have
been entertained by the Criminal Judge as to his
discretionary powers in this respect, it would plainly
encumbent upon him to discharge the Prisoner

2. 4th.

7th January 1818.

from jail on the expiration of fifteen days or one
months, according as the offence for which the
Prisoner was ordered to be confined might be punish-
able under Section XXXII or Section XXXIII Regulations IX.
of 1816. The Court direct that the said Prisoner,
Takeer-ood-deen, be forthwith set at liberty.

Ordered that extract of these pro-
ceedings be sent for the information and guidance of
the Criminal Judge in the Zilla of Vedachellum,
and that he be desired to communicate to the
First Assistant Magistrate in the same Zilla
such part of these proceedings as concerns that
officer for his information and future guidance.-

(Sent following letter &c.)

Read letter, dated the 12th instant
from the Criminal Judge in the Zilla of Chingul-
put, requesting that he may be furnished
with copy of the warrant issued for the imprison-
ment of one Takeer Mahomed, who was forwarded
to the Zilla of Chingulput on 1816 by the Collector
of the Southern Division of Canara under sentence
of banishment.-

(Here order No. 634 of 1817.)

Read also letter dated the 7th instant,

from

7th January 1818

From the Criminal Judge on the Zillas of Chengulpet requesting copy of warrant against Vellaswamiah served under sentence of banishment for 14 Years.

[Here enter No. 2]

As it appears from the foregoing letter that the Criminal Judge of the Zillas of Chengulpet is not in possession of copies of the warrants containing the sentences passed against the Prisoners, Yakeer Mahomed and Vellaswamiah respectively, it will be sufficient, for the purposes contemplated in the Courts Circular orders of the 3d October last, that the prisoners be sent to the Criminal Judge by whom they are severally to be discharged accompanied by a letter from the Criminal Judge of Chengulpet containing the name of each prisoner and such particulars regarding their respective Sentences as are to be found on the records of his office.

Ordered that extract of these proceedings be sent to the Criminal Judge on the Zillas of Chengulpet for his information and guidance.

[Sent following letter &c]

Read letter, dated the 23d ultimo from

7th January 1818

from the Second Judge on Circuit on the Western Division, reporting the arrival of the Court of Circuit at Seringapatam.

[Here enter No. 631 of 1817]

Read return, dated the 17th ultimo, from the Second Judge on Circuit on the Western Division, to the Courts precept of the 5th ultimo, directing the confinement of the Prisoner Tomakoot Chatoo Nambiar and the delivery of the prisoner Tarvath Ally Attaro into the custody of his friends.

[Here enter No. 622 of 1817]

Read return dated the 15th ultimo, from the First Judge on Circuit on the Western Division, to the Courts precept of the 9th ultimo, calling for copy of North Malabar Calendar 4th Quarterly of 1817.

[Here enter No. 623 of 1817]

Read return, dated the 17th ultimo from the Provincial Court of Circuit on the Western Division, to the Courts precept of the 5th ultimo, ordering communication to the Criminal Judge of the Courts directions that the Seal prescribed by Section XIV Regulation II

7th January 1818.

from the Second Judge on Circuit in the Southern Division, - with returned warrant for execution of prisoners in case № 9 of Murders calendar - 2d Sessions of 1817.

//Here enter № 631 of 1817.//

Read letter, dated the 27th ultimo, from the Second Judge on Circuit in the Western Division, - respecting the completion of the jail delivery at Seringapatam and his intention to return to Tellicherry.

//Here enter № 632. of 1817.//

Read letter, dated the 29th ultimo, from the First Judge on Circuit in the Ceirtha Division with returned warrant for execution of prisoner № 19 of Bellary calendar - 2d Sessions of 1817.

//Here enter № 633 of 1817.//

Read letter, dated the 19th ultimo, from the Magistrate in the zilla of Canara - forwarding correspondence with the Officer Commanding at Mangalore respecting the attendance of a Sepoy to answer a charge of Assault.

//Here enter № 626. of 1817.//

With reference to the Courts' orders of

7 January 1818.

Section II. of 1802. is to be used for all official acts done by them

//Here enter № 624. of 1817.//

Read letter, dated the 13th ultimo, from the Criminal Judge in the zilla of South Malabar, - with reports prescribed by Section XXVI. Regulation X. of 1816

//Here enter № 625 of 1817.//

Read letter, dated the 27th ultimo, from the Criminal Judge in the zilla of Chingulpat - reporting the arrival of a convict under sentence of transportation from the zilla of Bellary.

//Here enter № 629. of 1817.//

Read letter, dated the 23d ultimo, from the Second Judge on Circuit in the Western Division, - with copy of South Malabar calendar 2d Sessions of 1817.

//Here enter № 630 of 1817.//

Read letter, dated the 23d ultimo, from the Secretary to Government in the Judicial Department, - returning the reports of the First Circuit of the ~~1816~~ 1817 year in the Northern Division.

//Here enter № 633. of 1817.//

Read letter, dated the 27th ultimo, from

January 1818.

of the 26th Ultimo, on the Magistrate's letter of the 4th of the same month, the foregoing letter does not seem to require remark.-

RA.

GW

E.C.S

M

Governor

J. A.

At a Court of the Fouzdaree Adalut.-

Present,

Saturday 10th January 1818. Andrew Scott Esqre. Edward Croft Greenway Esqre. George Stratton Esqre. } Judges.

Read letter, dated the 19th November last, from the 1st Judge on Circuit in the Northern Division,- transmitting his proceedings held in case No. 7 of the Gayam Calendar for the Sessions A.D. 1817.-

/Here enter No. 597 of 1817./

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas of the Provincial Law Officer and the futwa of the Cazee ool Cozat and Mooftees of the Fouzdaree Adalut confirm the said futwas of the Cazee-ool-Cozat and Mooftees aforesaid and accordingly direct that the Prisoners

1st "Cheyatanpoo Boocheganda"

2d "Pydecoodah Liggadoo"

be set at liberty.-

Sent following letter

/Here enter A/

Read

Read letter, dated the 1st Instant,
from the 2d Judge on Circuit in the Western
Division, transmitting his proceedings held in
case № 7 of the Canara Calendar for the 2d
Sessions A.D. 1817.-

/Here enter № 609 of 1817./

The Court having maturely
considered the proceedings held before the Judge
on Circuit the futwa of the Provincial Law
Officer and the futwas of the Cazee ool Coozat
and Mooftees of the Foujdaree Adalut confirm
the said futwas of the Cazee ool Coozat and
Mooftees aforesaid and accordingly direct that
the Prisoners.

1st "Cottee"

2d "Chica" and

3d "Potta"

be set at liberty-

Sent following letter-

/Here enter B./

It appears, from the evidence of
Sookabhut, Potail of the village of Harkandee
in the Talook of Cundapoor, that considerable
delay occurred in the apprehension of the

prisoners in this case owing to the absence of the
Shanbog of the village and that when the Shanbog
did arrive he proceeded to commit to writing
the depositions of the several prisoners.-

Clause second Section V Regulation
XI of 1816 declares that Heads of villages shall
not receive from any person whom they
may apprehend any confession, either verbal
or in writing, except in the trivial cases
referred to in the first clause of that Section.
The duty of a Curnum is confined, by Section
XIII of the same Regulation, to taking down
the evidence of persons who may be examined
on the discovery of a dead body; to recording any
necessary particulars respecting its appearance
and to framing a report of the whole proceeding
on which proceeding, if there shall appear
ground for suspecting any person or persons,
the Head of the village is immediately to
apprehend and send such person or persons
to the Police Officer of the District.-

It may be proper, therefore,
that the attention of the Heads of villages in
the Zillah of Canara be specially directed to

to the provisions of Sections V. and XIII. Regulation XI of 1816 and that they be desired, in all cases where the Shanbog may not be in the village when a dead body is discovered, to call upon the Head of a neighbouring village to afford the requisite assistance, it being expressly enjoined that Heads of Villages shall co-operate in all things for the apprehension of offenders and the general security of the Country.-

Rajee Mahomed, the Prosecutor, states, in his evidence before the Circuit Court, that Venkoo, the female referred to in the Futwa, was forwarded by the Tahsildar to the Criminal Judge, but that no questions were put to her, and the Court find that she was not bound over by the Criminal Judge to give evidence before the Court of Circuit.-

As the Criminal Judge has not assigned any reason for the omission, the Court can only conclude that he did not consider it necessary to take the evidence of this person, a female, in a case of murder- The Court have to observe, however, that such would be no sufficient ground for

10th Janry. 1818.

for the omission here referred to, that the testimony of Venkoo, in whatever light it might have been viewed under the Mahomedan law, would have enabled the Court of Circuit and Foujdaree Adalut the better to form an opinion regarding the Statements of the Prisoners, and that, in every case, it is the duty of the Criminal Judge to bind over all persons who may have any knowledge of the offence with which the Prisoner is charged, to be examined before the Court of Circuit.-

Ordered, that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Western Division by Precept desiring him to communicate so much of the former part of these proceedings to the Magistrate in the Zilla of Canara, in order to the due promulgation of the orders therein contained, and to communicate the latter part to the Criminal Judge in the Zilla of Canara for his information and guidance in future

Sent following Precept

Here enter 6/

Read

10th January 1818.

Read report, dated the 24th Ultimo, from the 2d Judge of Circuit in the Southern Division,- submitting the general report prescribed by Section XXXVIII Regulation VIII of 1802 for the 2d Sessions of 1817.-

/Here enter No. 635 of 1817/

The general remarks contained in the foregoing report, relative to the operation of the Criminal enactments of 1816, are submitted, without observation, to the consideration of Government,- adverting, however, to the opinion expressed by the Second Judge in respecting the Polygars in the Zillas of Madura and Tinnevelly, the Court consider it to be incumbent upon them to request the attention of Government to the suggestions offered towards the conclusion of the Report with a view to ensure permanent tranquillity and good order in the Southern Pollams.-

Ordered, that the foregoing report and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable

the Governor in Council.-

Sent following letter

/Here enter D/

Read letter dated the 30th Ultimo, from the Secretary to Government in the Judicial Department,- communicating the grant of a pension to Ghoolam Rusool Cazy of the Provincial Court for the Western Division, of one third of the pay of his office.-

/Here enter No. 3 of 1818/

Read return dated the 17th Ultimo, from the Provincial Court of Circuit in the Centre Division,- to precept dated 5th Ultimo, ordering communication to the several Zillas Courts of the Court's direction that no seal be made use of by the Zilla Courts but that prescribed by Section XIV Regulation II of 1802.-

/Here enter No. 4 of 1818./

Read return dated the 30th Ultimo from the Provincial Court of Circuit in the Northern Division,- to precept dated 5th Ultimo ordering communication to the several

10th January 1818.

several Criminal Judges of the Courts directions by the Sister Courts that no other Seal be used than that prescribed by Section XIV Regulation II of 1802.—

/Here enter No. 5 of 1818./

Read return dated the 30th ultimo from the Provincial Court of Circuit for the Northern Division,— to precept dated 3rd October ordering communication to the several Criminal Judges of the Courts instructions respecting the demand of security from prosecutors and witnesses for their appearance at the Sessions.—

/Here enter No. 6 of 1818.—

Read return dated the 31st ultimo from the Judges of the Provincial Courts for the Northern Division,— to precept dated 3rd October ordering communication to the several Criminal Judges and Magistrates of the Courts' instructions relative to the enlargement of Convicts on the expiration of the time of their imprisonment.—

/Here enter No. 7 of 1818/

Read return dated the 7th Ultimo from

3/ J. A.

10th Jany. 1818

from the Court of Circuit for the Northern Division,— to precept dated 30th Ult by ordering communication to the several Criminal Judges of the Courts instructions that the proceedings of the Magistrate or Police Officer shall form part of the record of the proceedings to be delivered to the Judges of the Court of Circuit under Section XX Regulation X of 1816.—

/Here enter No. 8 of 1818/

R. A.

Seeeeeoseoh

At a Court of the Foujdaree Udalut
Present

Thursday
15th January 1818

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges
George Stratton Esqre

Read letter, dated the 29th November last, from the 3d Judge of the Court of Circuit in the Northern Division, transmitting his proceedings held in case No 3 of the Masulipatam Calendar for the 4th Quarterly Sessions A.D. 1817.

/Here enter No 611 of 1817./

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Lazee-ool-Looat and Mooftee of the Foujdaree Udalut, confirm the said futwa of the Lazee-ool-Looat and Mooftee aforesaid and, under the sentence of Ookoobut-i-Khufeefa declared against the first Prisoner Amba Goorroobottoo, adjudge him the said first Prisoner -

Amba Goorroobottoo

to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of Six Calendar Months

15th January 1818.

months and then released.

And the Court direct that the second Prisoner

Tallooy Mullick

be set at liberty.—

Sent following Letter

/Here enter A/

Among the documents delivered in this case by the Criminal Judge to the Court of Circuit, is a declaration alleges to have been made by the first Prisoner, Simba Goorroosah before the Canpoos and Cermuns of the village of Goodoor.— This declaration, the Court have to observe, does not possess any validity whatever, it being expressly declared in Clause Second Section V Regulation XI of 1816 that the Heads of villages shall not receive from any person whom they may apprehend any confession, either verbally or in writing, except in the trivial cases referred to in the first Clause of that Section.—

The Court of Fouzdaree Udalut have also to remark that as the Prisoners in this case were charged with house-breaking it became the duty of the Police Officer in the purguinnah of Vennacottah, under the provisions of Section XXVII Regulation XI of 1816, to send the

the said prisoners not to the Magistrate, but to the Criminal Judge of the Zilla of Chasicle-patam.—

In order to prevent the recurrence of similar irregularities, it is desirable that the Magistrate should direct the attention of the Heads of villages in his Zilla to the provisions of Clause Second Section V Regulation XI of 1816 and that he should cause it to be distinctly understood by the several police Officers of districts within his jurisdiction that in all the cases specified in Clause First Section XXVII Regulation XI of 1816, they are to forward the accused or suspected persons to the Criminal Judge of the Zilla.—

Ordered that extract of these proceedings be sent to the 3d Judge of the Court of Circuit in the Northern Division by Receipt desiring him to communicate the same to the Magistrate of the Zilla of Chasalipatam for his information and guidance.—

Sent following Receipt

/Here enter B/

Read letter dated 15th Ultimo from the 1st Judge on Circuit in the Western Division, transmitting his proceedings held in case No 14 of the North Malabar Calendar for

15th January 1818.

for the fourth Quarterly Sessions of 1817.
(Here enter No. 621)

Read also letter, dated 19th Ultimo from the 1st Judge of the Court of Circuit in the Western Division forwarding Copies of Complaint of the prosecutor in Case No. 21. of Confessions of two of the Prisoners and of the Futwa of the Provincial Law Officer for the information of the Court.
(Here enter No. 628.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Sudder Adalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and acquitting the Prisoners

1st "Perody Koren"

2nd "Ally Cannen" and

3rd "Kandambatha Coren"

direct that they be released accordingly.
(Sent following letter D.)

The Court have to call the attention of the Judge of Circuit who presided at the trial of the Prisoners in this case to a variation which appears, on the face of the Futwa delivered by the Law Officers of the Sudder Adalut, between the English and persian translations of the Record of the proceedings, the first witness for the prosecution being represented (according to the Persian translation) to have deposed before

4 F. R.

15th Jan. 1818.

before the Court of Circuit, in opposition to his former statement, that after the prisoners had tied a moondoo to the throat of Chandoo, the said Chandoo did not "speak", whereas the words of this witness (according to the English translation) are that Chandoo did not "move" afterwards.— Now it is only in the event of this witness having uttered, before the Court of Circuit, the words ascribed to him in the Persian translation of this passage of his deposition that the separate statements of this witness on the point here referred to could be regarded as absolutely repugnant the one to the other, and the defect in the Record is therefore noticed in order that the First Judge may see the necessity of exercising the strictest attention in examining the translations of proceedings held in all such trials as he may have to refer from time to time for the final sentence of the Sudder Adalut.—

With regard to the papers connected with case No. 21 of the North Malabar Calendar 4th Quarterly Sessions of 1817 which have been forwarded by the first Judge, the Court observe, in reference to the Calendar aforesaid, that the Judge has deferred passing any

15th January 1818.

any Sentence in the above case until he shall receive the final Sentence of the Foujdaree Udalut in Case No. 11 — the Suage will now proceed to pass Sentence in Case No. 21 in the terms of the Futwa and to issue his warrant for the execution of the same, and the Court deem it necessary to observe that the more regular course would have been to have passed sentence in the first instance, only staying the issue of the warrant for carrying the same into execution, as far as concerned the prisoners comprehended in Case No. 11 of the Calendar, until the receipt of the final Sentence passed in the latter case by the Court of Foujdaree Udalut —

Ordered that extract of these proceedings be sent to the first Suage of the Court of Circuit in the Western Division for his information and guidance —

Sent following letter

R. A.

/Here enter D./

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GW

J. A.

At a Court of the Foujdaree Udalut —

Present,

Friday 16th January 1818 — Andrew Scott Esqre. / Edward Croft Greenway Esqre. / George Stratton Esqre. } Judges —

The proceedings held in Case No. 9 of the North Malabar Calendar 4th Quarterly Sessions of 1817 and in cases No 11 of the South Malabar Calendar and No. 1 of the Supplement to the additional South Malabar Calendar 2d half yearly Sessions of 1817 not having been received —

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GW

The Court direct that the First and Second Judges of the Court of Circuit in the Western Division, who severally presided at the Quarterly and half yearly Sessions of the two Zillas aforesaid be by precept commanded to send up the proceedings held by them respectively in the cases abovementioned without delay and that their attention be called to the observations recorded by the Court in their Proceedings of 29th October last with

a

16th January 1818.

a view to obviate delays in the transmission
of trials referrible to the Zoujdaree Adalut

Sent following Precept.

M R.A. /Here enter A/

GW

Seeneewasah

J. 16.

At a Court of the Zoujdaree Adalut

Present

Monday
19th January 1818.

Andrew Scott, Esqre. ..... } Judges.
Edward Croft Greenway, Esqre. }
George Stratton, Esqre. ..... }

G.C.S.

Read letter, dated the 9th instant,
from the Criminal Judge in the Zillah of Chungulpoot
with reports prescribed by Section XXXV. of Regulation X. of 1816

/Here enter N. 14./

On looking over the Report of persons ap-
prehended in the Zillah of Chungulpoot the Court observe
that one Unnoah, whose name is entered N. 2 in the list
and who is represented to have been apprehended on
the 12th of June last, is stated not to have been
examined by the Criminal Judge. There are also some
persons stated to have been apprehended on October and
November who had not been examined up to the dates
of the Reports.

The Court direct that the Criminal
Judge in the Zillah of Chungulpoot be commanded to
explain the cause of the delay in the several cases
here referred to and to make returns to the Precept

without

withdrawn five days from the date of its receipt.

/Sent following Receipt A./

Read letter dated the 5th Instant from the Assistant Criminal Judge in the Gilles of Serengestatum - with reports of prisoners for October November and December 1817.

/Here enter N. 19./

The Report of Prisoners under the charge of the Criminal Judge to be tried contains the names of four persons charged with the crime of Theft and represented to be at large upon bail.

Theft is declared not to be a bailable offence and it was therefore the duty of the Assistant Criminal Judge in charge, unless the several persons here referred to were only implicated in the degree mentioned in clause Second Section X Regulation IX of 1816 to commit them to jail instead of holding them to bail to take their trial before the Court of Circuit.

Ordered that extract of these proceedings be sent to the Assistant Criminal Judge in the Gilles of Serengestatum for his information and future guidance.

/Sent following letter B./

Read letter dated the 10th instant from the Criminal Judge in the Gilles of Carcara, -

with

with reports prescribed by Section XXXV Regulation X of 1816

/Here enter N. 20./

The Report of Persons apprehended in the Gilles of Carcara the Court remark the names of several persons who have been sentenced by the Criminal Judge to be released on producing security for good behaviour for the period of twelve months.

The sentence so passed by the Criminal Judge is not authorized by the Regulations, it being competent only to the Courts of Circuit and Trial Adawlut, on cases brought regularly before them and under the circumstances specified in clause Sixth Section II Regulation XV of 1803 to direct persons to be detained in custody until they shall give security for future good behaviour and appearance when required.

Ordered that extract of these proceedings be sent to the Criminal Judge in the Gilles of Carcara, for his information and future guidance.

/Sent following letter C./

Read letter, dated the 7th instant from the Acting Criminal Judge in the Gilles of Garjaroo - with reports prescribed by Section XXXV Regulation X of 1816.

/Here enter N. 33./

The Report of Persons apprehended

on

19th January 1818. in the Zillas of Ganjam the Court remarks the names of several persons who have been sentenced by the Acting Criminal Judge to be released on producing security for good behaviour for the period of twelve months. The Sentence so passed by the Acting Criminal Judge is not authorized by the Regulations, it being competent only to the Courts of Circuit and Zillah Adalut, in cases brought regularly before them and under the circumstances specified in clause Sixth Section II. Regulation XV. of 1803, to direct persons so to be detained in custody until they shall give security for future good behaviour and appearance when required.

Ordered that extract of these proceedings be sent to the Acting Criminal Judge in the Zillas of Ganjam, for his information and future guidance.

/Sent following letter D./

Read letter dated the 14th instant, from the Secretary to Government in the Judicial Department, with observations on the Circuit report of Mr. Harris 1st Judge of the Provincial Court for the Northern Division.

/Here enter No. 37./

The Court direct that copy of the foregoing letter be sent to the Court of Circuit for the information of

19th January 1818.

of the First Judge and generally for the future guidance of that Court.

/Sent following letter E./

Read the following letters from the Criminal Judges in the Zillas of Bellary, Seringapatam, Chengalpet, Salem, Vizagapatam, Dindigul and Rajahmundry, with reports of Criminal cases depending on the 31st December 1817.

/See Reports No. 10. 11. 17. 21. 25. 26 and 35./

Read the following letters from the Criminal Judges in the Zillas of Salem, Dindigul, Vizagapatam, and Rajahmundry, with Reports prescribed by Section XXXV Regulation X. of 1816.

/See Reports No. 20. 23. 27 and 34./

Read the following letters from the Magistrates in the Zillas of Masulipatam and Timmerly with statement prescribed by Section XXX. Regulation IX of 1816.

/See Statements No. 16 & 29./

Read the following returns from the Magistrates in the Zillas of Salem and Vedachellum, the Courts precept of the 3d instant, calling for the Abstract Statements prescribed by Section XXX Regulation IX. of 1816.

/See Statements No. 31 & 33./

Read

Read return, dated the 2d. instant,
from the last Judge on circuit in the Northern Division,
to the Courts precept of the 17th. November last – ordering
communications to the Criminal Judge at Cumberland of
the Courts observations on cases 3 and 4 of the Cumberland
calendar – 2d. Sessions of 1817.

[Here enter No. 9.]

Read letter, dated the 5th. instant, from
the Assistant Magistrate in the Gaol of Sarah Island –
with report prescribed by Section XXX of Legislature IX. of 1816.

[Here enter No. 12.]

Read letter, dated the 6th. instant, from
the Acting Third Judge on circuit in the Southern
Division – reporting his arrival on circuit at Darlymple.

[Here enter No. 13.]

Read letter, dated the 9th. instant,
from the Criminal Judge in the Gaol of Launceston –
with list of prisoners under sentence of transportation.

[Here enter No. 15.]

Read return, dated the 8th. instant,
from the Criminal Court of Circuit in the Southern
Division, to the Courts precept of the 5th. ultimo – ordering
communications to the Criminal Judges of the Courts in-
structions respecting the Official Seal.

[Here enter No. 16.]

19th January 1818.

Read letter, dated the 12th. instant,
from the Second Judge in the Northern Division –
reporting his arrival on circuit at Stanley.

[Here enter No. 22.]

Read letter, dated the 1st. January,
from the Criminal Judge in the Gaol of Darlymple –
with report prescribed by Clause fourth Section VIII. of Legis-
lature XV. of 1803.

[Here enter No. 24.]

Read letter, dated the 15th. instant,
Criminal Judge in the Gaol of Launceston – reporting
the arrival of a convict from Bellary under sentence
of transportation.

[Here enter No. 32.]

Read letter, dated the 16th. instant,
from the Second Judge on circuit in the Southern Divi-
reporting his arrival at Campbell Town.

[Here enter No. 36.]

R. A.

60/8

Secretary

J. W

At a Court of the Fouydaree Udalut

Present

Saturday 24th Jan.y 1818.

Andrew Scott Esqre.
Edward Croft Greenway Esqre.
George Stratton Esqre. } Judges

Read letter, dated 9th instant, from the acting Criminal Judge in the Zilla of Ganjam, - with report prescribed by Section XXXVIII Regulation X of 1816.

CW No 611

(Here enter No 41)

The orders of the Court of the 19th instant are applicable to Cases Nos. 1 and 3 of the foregoing Report wherein the Prisoners are represented to be detained in Custody from inability to give the required Security.-

Ordered that extract of these proceedings be sent to the Acting Criminal Judge in the Zilla of Ganjam for his information and guidance.-

(Sent following letter No)

Read letter, dated 15th instant, from the acting Criminal Judge in the Zilla of Tinchinopoly, - with report prescribed by Section XXXV of Regulation

24th January 1818.

Regulation X of 1816.

(Here enter No. 43)

In No. 5 of the Report of Persons apprehended in the Zilla of Trichinopoly, it is recorded that the Prosecutor was fined 5 Pagodas for making a false charge.—

The subsisting Regulations do not authorize the Criminal Judge to impose a fine on a Prosecutor in any Case which may be brought before him, it being presumed that, under the previous enquiry required to be made by the Police Officer or Magistrate as the case may be, a Person will not be brought before the Criminal Judge without some *primâ facie* evidence in support of the charge preferred against him.— In all cases, however, where the charge may appear to the Criminal Judge to be manifestly groundless, the Court are of opinion that he should communicate the dismissal of the charge to the Magistrate of the Zilla for the future guidance of that Officer or, if the prisoner shall have been forwarded to the Criminal Judge by a Police Officer, for the future guidance of such Police Officer.—

The sentences so passed by the Acting Criminal

On examining the foregoing Report, the Court also remark that several persons have been sentenced to be detained in custody until they give security for their future good behaviour and appearance.—

Acting Criminal Judge are not authorized by the Regulations, it being competent only to the Courts of Circuit and Fouzdaree Udalut, in cases brought regularly before them and under the circumstances specified in clause Sixth Section II. Regulation XV of 1803, to direct persons to be detained in custody until they shall give security for future good behaviour and appearance when required.—

Ordered that extract of these proceedings be sent to the Acting Criminal Judge in the Zilla of Trichinopoly for his information and future guidance.—

(Sent following letter B)

Read letter, dated 15th instant, from the Criminal Judge in the Zilla of Verdachellum, with Reports prescribed by Section XXXV Regulation X of 1816.

(Here enter No. 45)

In looking over the Report of Persons apprehended in the Zilla of Verdachellum, the Court observe the Case of one Soobbaen who is represented to have been apprehended on the 13th December last on a charge

charge of stealing Jewels to the value of Pago-
das 183½ and to have been released by reason
of his being insane on the 23d. of the same
month.—

Supposing evidence to have been
adduced in support of the above charge, the
Court are of opinion that the Criminal Judge
of Verdachellum should have committed the
person here mentioned to take his trial before
the Judge of Circuit, with whom it would have
remained to act inconformity with the Rules
which have been laid down, in all cases of
insanity, for the general guidance of the Courts
of Circuit.—

Ordered that extract of these
proceedings be sent to the Criminal Judge
in the Zilla of Verdachellum for his informa-
tion and future guidance:—

/Sent following letter C./

Read letter, dated 14th instant, from
the Criminal Judge in the Zilla of Madura,— with
Report prescribed by Section XXXV Regulation X
of 1816.—

/Here enter No 47/

The sentence so passed by the
Criminal

In the Report of Persons apprehended in the Zilla of Madura the Court remark the names of several persons who have been sentenced by the Criminal Judge to be released on procuring security for good behaviour for the period of twelve months.—

24th Jan.y 1818.

Criminal Judge is not authorized by the Regula-
tions, it being competent only to the Courts of
Circuit and Fouzdaree Udalut, in cases brought
regularly before them and under the circumstances
specified in clause Sixth Section II Regulation
XV of 1803, to direct persons to be detained in
custody until they shall give security for future
good behaviour and appearance when required.

Ordered that extract of these
proceedings be sent to the Criminal Judge
in the Zilla of Madura for his information and
future guidance.—

/Sent following letter D/

Read letter, dated 15th instant, from
the Criminal Judge in the Zilla of Tinnevelly,—
with Reports prescribed by Sections XXXV and
XXXVII of Regulation X of 1816.—

/Here enter No 52/

The Criminal Judge states, in
his Remarks on part of the Report of Criminal
Cases depending before him, that he wrote to the
Magistrate of Madura on the 8th November last,
requesting the Police Officer
to cause the attendance before him, the Criminal
Judge, of certain witnesses; but that no answer has
been received.—

the

24th January 1818.

The delay here noticed being obviously detrimental to the ends of Justice, it is incumbent upon the Criminal Judge of Tinnevelly again to address the Magistrate of Madura and to request that the several witnesses whose evidence is required may be desired to attend without delay.—

In the Report of Persons apprehended in the Zilla of Tinnevelly the Court remark the names of several persons who have been sentenced by the Criminal Judge to be released on producing security for good behaviour for the period of twelve Months.—

The sentence so passed by the Criminal Judge is not authorized by the Regulations it being competent only to the Courts of Circuit and Foujdaree Adalut, in cases brought regularly before them and under the circumstances specified in Clause Sixth Section II Regulation XV of 1803, to direct persons to be detained in custody until they shall give security for future good behaviour and appearance when required.—

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Tinnevelly, for his information and guidance.—

/Sent following letter E/

Read letter, dated 15th instant, from the 1st Judge on Circuit in the Southern Division,— with Copy of Trichinopoly Calendar 1st Sessions AD 1818

/Here enter No 39/

Read

24th January 1818.

Read letter, dated 16th instant, from the 3d Judge of the Court of Circuit in the Centre Division,— with Copy of Chittoor Calendar 1st Sessions AD 1818.—

/Here enter No 40/

Read Return, dated 14th instant from the Magistrate in the Zilla of Tinnevelly, to precept dated 3d Instant calling for the Abstract statement prescribed by Section XXX Regulation IX of 1816.—

/Here enter No 42/

Read letter, dated 12th instant, from the 2d Judge of the Court of Circuit for the Western Division,— with Copy of Serengapatam Calendar 2d Sessions AD 1817.—

/Here enter No 44/

Read letter, dated 12th instant, from the Criminal Judge in the Zilla of North Malabar,— with Report prescribed by Section XXXVI Regulation X of 1816.—

/Here enter No 46/

Read letter, dated 14th instant, from the Criminal Judge in the Zilla of Madura,— with Report prescribed by Section XXXVII

24th January 1818.

XXXVII Regulation X of 1816.

/Here enter No 48/

Read letter, dated 15th instant, from the Criminal Judge in the Zilla of Vizagapatam with Report prescribed by Section XXXVII Regulation X of 1816.

/Here enter No 49/

Read letter, dated 15th instant, from the 1st Judge on Circuit in the Western Division,- Reporting the arrival of the Court of Circuit at Mangalore.

/Here enter No 50/

Read letter, dated 16th instant, from the Magistrate in the Zilla of Madura,- returning the Court's precept of 3d instant with abstract statement prescribed by Section XXX Regulation IX of 1816.

/Here enter No 51/

Read return, dated 16th instant, from the Magistrate of Madura, to Circular precept of 3d instant calling for abstract statement prescribed by Section XXX Regulation IX of 1816.

/Here enter No 53/

R.A.

E.C.S

M

G/

J. C.

At a Court of the Foujdaree Udalut.

Present.

Monday
26th January
1818.

Andrew Scott Esqre
Edward Croft Greenway Esqre
George Stratton Esqre
} Judges.

E.C.S

M

G/

Read letter, dated the 15th Instant, from the Secretary to Government in the Judicial Department,- enclosing copy of a letter from the Register in charge of the Zilla of Bellary, respecting the powers he is competent to exercise as Assistant Criminal Judge during the adjournment of the Court.

/Here enter No. 58./

Under the orders passed by the Court of Sudr Udalut on the 23d November last for the adjournment of the Zilla Court of Bellary it was not intended that any interruption should be occasioned in the business of the Criminal Court of that Zillah and it will therefore be fully competent to the Assistant Criminal Judge in charge, notwithstanding such adjournment, to do all acts

acts for the furtherance of the ends of public justice, that may be authorized under the provisions of Clause Second, Section V. Regulation X of 1816 and the further provisions of Regulation III of 1817.

Ordered that extract of these proceedings be sent to the Assistant Criminal Judge in the Zilla of Bellary for his information and guidance.-

Sent following letter.

/Here enter A/

The Court resolve to submit to Government that they have issued instructions on this date for the guidance of the Assistant Criminal Judge in charge of the Zillas of Bellary and at the same time respectfully to submit their opinion that, with a view to the more regular transaction of public business it might be expedient to delegate to the Register and Assistant Criminal Judge the temporary execution of the duties of Judge, during the absence of Mr. Bruce, under the provisions of Clause Second Section XXIII Regulation II of 1802.-

Ordered

Ordered that extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.

Sent following letter-

/Here enter B./

Read letter, dated the 30th Ultimo from the Secretary to Government in the Judicial Department- communicating the grant of a pension to Ghoolam Rusool Cazy of the Provincial Court for the Western Division of one third of the pay of his office.-

/Here enter No. 3./

Read also petition from Mohammud Mukhdoom Bushaut- Praying that the payment of the pension granted to his father Moulwee Ghoolam Rusool may commence from the date of his retirement from Office the 1st December 1815 and that the amount may be paid in Bengal.-

/Here enter Petition No.

The Court direct that copy of the foregoing Petitions be transmitted with ~~extract of this Proceedings~~ to the Secretary to Government in the Judicial Department with the Court's request, that he will submit the same for the orders of the Right Honorable the Governor in Council, with reference to the communication of the directions of Government made to the Court in Mr. Secretary Hill's letter of the 30th Ultimo.

Sent following letter -

/Here enter 6/

Read letter, dated the 17th instant, from the Criminal Judge in the Zilla of Canara - with report of Criminal Cases depending on 31st Ultimo. -

/Here enter No. 59./

Of the cases here stated to be depending before the Criminal Judge there are several wherein the persons accused are represented to have been apprehended in the months of August September and ~~October~~ but

25th Jany 1818.

but no remark has been entered by the Judge in explanation of this delay. -

The Court direct therefore that the said Report be returned to the Criminal Judge in the Zilla of Canara by Precept desiring him to specify in the last column of the report, the cause of the delay in the several cases here referred to and to make return to the Precept within five days from the date of its receipt. -

Sent following Precept

/Here enter D/

Read letter, dated the 22d instant from the Criminal Judge in the Zillah of Chittoor, with report prescribed by Section XXXVII Regulation X of 1816. -

/Here enter No. 70/

Of the cases here stated to be depending before the Criminal Judge there are several wherein the persons accused are represented to have been apprehended in the months of August, September, October and November, but no remark has been entered by the Judge in explanation

explanation of this delay:-

The Court direct therefore that the said Report be returned to the Criminal Judge in the Zilla of Chittoor by Precept desiring him to specify in the last column of the report, the cause of the delay in the several cases here referred to and to make return to the Precept within five days from the date of its receipt.-

Sent following Precept.

/Here enter E./

Read letter, dated the 15th instant, from the Assistant Criminal Judge in the Zillah of Bellary,- with reports prescribed by Section XXXV Regulation X of 1816.-

/Here enter No. 61./

Read letter, dated the 15th instant, from the 2d Judge on Circuit for the Western Division,- with warrant for execution of prisoners Gorlee and Tamaia in case No. 10 Canara Calendar 2d Sessions A.D. 1817.-

/Here enter No. 60./

Read

Read return dated the 7th Instant, from the Assistant Magistrate in charge of Seringapatam,- to precept dated 3d Instant calling for abstract Statements prescribed by Section XXX Regulation IX of 1816.-

/Here enter No. 56./

Read letter, dated the 15th instant, from the 2d Judge of the Court of Circuit for the Western Division,- with warrant for the execution of the prisoner Kadowally Koottyallee No. 5. additional South Malabar Calendar 1st Sessions A.D. 1817.-

/Here enter No. 62./

Read return dated the 15th instant, from the Magistrate in the Zillah of Masulipatam,- to precept dated 7th instant calling for abstract Statements prescribed by Section XXX Regulation IX of 1816.-

/Here enter No. 54./

Read letter, dated the 16th instant, from the Assistant Criminal Judge in charge of Seringapatam,- with report of prisoners confined under sentence and

26th January 1818.

of prisoners on whom sentence has been passed without reference to the Foujdaree Adalut.—

/Here enter No. 57./

Read letter, dated the 17th instant, from the Magistrate in the Zilla of Canara,— with Statement prescribed by Section XXX Regulation IX of 1816.—

/Hereenter No. 63./

Read letter, dated the 20th instant, from the Magistrate in the Zilla of Tanjore,— with Statement prescribed by Section XXX Regulation IX of 1816.—

/Here enter No. 68/

Read return dated the 20th instant, from the Magistrate in the Zilla of Combaconum,— to precept dated 3d instant calling for Abstract Statement prescribed by Section XXX Regulation IX of 1816.—

/Here enter No. 64/

Read return, dated the from the Acting Magistrate in the Zilla of Darapooram,— to precept dated 7th instant

3/J. C.

instant, calling for Abstract Statement prescribed

26th Jany. 1818 by Section XXX Regulation IX of 1816.—

/Here enter No. 66./

Read return, dated the 18th instant, from the Magistrate in the Zilla of Canara, to precept calling for abstract Statement prescribed by Section XXX Regulation IX of 1816.—

/Here enter No. 65/

Read letter, dated the 16th instant, from the acting Magistrate in the Zilla of Darapooram,— with Statement prescribed by Section XXX Regulation IX of 1816.—

/Here enter No. 67./

Read letter, dated the 12th instant, from the acting Criminal Judge in the Zilla of Gunjam,— reporting the escape of certain prisoners from the Lall at Berhampore.—

/Here enter No. 55./

RA

665

M

GW

Secretary

F. U.

At a Court of the Foujdaree Udalut

Present

Wednesday 28th Jan.y 1818. Andrew Scott Esqre. Edward Croft Greenway Esqre. George Stratton Esqre. } Judges

The Report prescribed by Section XXXVII Regulation VII of 1802 not having been received from the Judge who proceeded on Circuit in the Northern Division during the second Sessions of 1817—

E C S
M
C V.

The Court direct that the First Judge of the Court of Circuit in the Northern Division be by precept commanded to send up the aforesaid Report and to make return to the Precept within fifteen days from the date of its receipt.—

/Sent following Precept &c./

The Report prescribed by Section XXXVII Regulation VII of 1802 not having been received from the Court of Circuit in the Western Division either for the first or Second Sessions of 1817—

The Court direct that the second Judge

28th January 1818.

Judge of the Court of Circuit in the Western Division, on whom it devolved, under the orders of Government, to perform the duties of each of the half yearly Circuits for the year aforesaid, be by Precept + commanded to embody into one Report the several observations which may have been made by him on each of the said Circuits respectively and to forward the same to the Foujdarce Udalut within one Month from the date of the Receipt of the Precept.—

Sent following Precept By

R.A.

W.

E.S.

M

G.W.

J. U

Thursday 29th January 1818.

At a Court of the Foujdarce Udalut

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre
George Stratton Esqre
} Judges

W

E.S.

G.W.

Read letter, dated 20th instant, from the Criminal Judge in the Zilla of Combaconum, — with report prescribed by Section XXXV. Regulation X. of 1816. —

Here enter No. 74

On looking over the foregoing Report the Court observe one or two cases wherein the Prisoners have been sentenced to six Months imprisonment and, in the event of their not producing Security for good behaviour on the expiration of that term, to be impresoned for a further period of six Months. —

In all cases where the Criminal Judge shall be of opinion that six Months' imprisonment is not a sufficient punishment, he is empowered to fix a fine, within a certain amount, commutable if not paid to a further period of imprisonment not exceeding six Months, but it is competent only to the Courts of Circuit

and

and Foujdaree Udalut to order persons to give Security for their future good behaviour.—

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Combaconum, for his information and future guidance.—

/Sent following letter A/

Several of the letters and Returns to precepts which have been received from time to time from the Magistrates of the Zillas having been subscribed by those officers in the joint character of Collector and Magistrate and in some instances with the designation of Collector only.

The Court consider it necessary to notice the irregularity and to state generally, for the information of the Magistrates, that official acts done by them in the exercise of their functions as Magistrate are entirely unconnected with acts performed in the discharge of their fiscal duties, and consequently that all official papers which they may have to attest in their former Capacity can be regularly attested only by the Signature of Magistrate, denoting that such acts are performed by them in the exercise of their judicial authority.—/

Ordered

Ordered that extract of these proceedings be sent to the four Courts of Circuit by Precept desiring them to communicate the same to the Magistrates of the several Zillas within their respective jurisdictions for their information and future guidance.—

/Sent following Precept B/

The Register lays before the Court the General Abstract Statements of the Criminal trials on which Sentences were passed during the year 1817.—

/Here enter Abstract Statements/

Ordered that the foregoing Statements be sent to the Secretary to the Government in the Judicial Department for the purpose of being laid before the Right Honourable the Governor in Council.—

/Sent following letter/

Read return, dated 23d. instant from the Magistrate in the Zilla of Nellore,— to the precept dated 3d Instant calling for Abstract Statements prescribed by Section XXX Regulation IX of 1816.—

/Here enter No. 72/

Read

29th January 1818.

Read letter, dated 21st instant, from the Criminal Judge in the Zilla of Combaconum,- With report prescribed by Section XXXVII Regulation X of 1816.-

/Here enter No. 73/

Read letter, dated 21st instant, from the Secretary to Government in the Judicial Department,- Sanctioning the police charges in Coimbatore as recommended by the Commission.-

/Here enter No. 75/

Read letter, dated 16th instant, from the Magistrate in the Zilla of Vizagapatam,- with Statement prescribed by Section XXX Regulation IX. of 1816.-

/Here enter No. 76/

Read letter, dated 14th instant, from the Criminal Judge in the Zilla of Masulipatam,- with Reports prescribed by Section XXXV and XXXVII of Regulation X of 1816.-

/Here enter No. 78/

Read letter, dated 21st instant, from the Assistant Magistrate of the Zilla of Rajahmundry- Transmitting Abstract Statements required by Section XXX Regulation IX of 1816.-

/Here enter No. 79/

Read Return, dated 23d instant, from the Magistrate in the Zilla of Trichinopoly- to precept dated 3d Instant calling for abstract Statement - prescribed by Section XXX Regulation IX of 1816.-

/Here enter No. 80/

Read letter, dated 23d instant, from the Collector & Magistrate in the Zilla of Trichinopoly- Transmitting Abstract Statement required by - Section XXX Regulation IX of 1816.-

/Here enter No. 81/

Read letter, dated 21st instant, from the Magistrate in the Zilla of Calicut,- Transmitting Statement required by Section XXX Regulation IX of 1816.-

/Here enter No. 82/

Read Return, dated 21st instant, from the acting Magistrate of the Zilla of Rajahmundry, to precept dated 3d Instant calling for Abstract Statement prescribed by Section XXX Regulation IX of 1816.-

RA

/Here enter No. 83/

Read with, dated the 29th instant from Mr. J. F. Thomas, taken by him as Assistant to the Register to the Court of Foujdaree Adawlut.

/Here enter A./

F. A.

At a Court of the Foujdaree Udalut

Present,

Wednesday
4th Feb.y 1818.

Andrew Scott Esqre
Edward Croft Greenway, Esqre
George Stratton Esqre
} Judges.

Read letter, dated the 6th ultimo, from the 1st Judge of the Court of Circuit in the Western Division, - submitting, with observations Case No. 9. North Malabar Calendar 4th Quarterly Sessions A.D. 1817.-

/Here enter No. 30./

The Court having maturely considered the Proceedings held before the Judge of Circuit the Futwa of the Provincial Law Officer and the Futwa of the Cazee ool Cozat and Mooftees of the Foujdaree Udalut confirm the said Futwa of the Cazee ool Cozat and Mooftees aforesaid and acquitting the Prisoner

"Aryeeman"

direct that he be released accordingly.-

Sent following letter

(Here enter &

Read

4th February 1818.

Read letter, dated the 21st ultimo, from the 3d Judge of the Court of Circuit for the Western Division, - forwarding, with observations and sundry documents, copies of the North Malabar Calendars for the 1st Quarterly Sessions of 1818.-

Here enter No. 1717.

On the orders which have been passed by the third Judge of the Court of Circuit it is only necessary to observe generally that they appear to have been fully warranted by the circumstances of the case and that the measures which the Third Judge has considered it necessary to adopt, in order to obviate unnecessary delays in the trials of persons charged with crimes, meet with the approbation of the Foujdaree Adalut. Adverting, however, to the representations made by the Magistrate of Malabar in his return of the 19th Ultimo, the Court deem it incumbent upon them to communicate to the Third Judge of the Court of Circuit their particular desire that, at the close of the first Quarterly Sessions, he will report what may have been

4th February 1818.

done by the Magistrate under the instructions of the Court of Circuit and that he will eventually submit such suggestions as shall to him appear expedient with a view to ensure the prompt and efficient discharge of the important duties with which the Magistrate is entrusted.-

In the column of remarks in No. 9 of the Report of Prisoners under examination before the Criminal Judge of North Malabar, which forms an enclosure in the foregoing letter, it is stated that there was no Complainant in the case (a case of murder) that the Law Officer had objected to the Circuit Vakeel appearing as Prosecutor and that orders had been sent to the Cutcherry to ascertain whether there were any Relations to the deceased.-

The reference here represented to have been made to the Law Officer was irregular and it has led to a delay detrimental to the ends of justice.- In all similar cases of heinous offence where there shall appear

appear to be evidence sufficient to put the accused upon his trial and no person shall come forward to conduct the prosecution, the Criminal Judge should direct the Govern=ment Vakeel to prosecute on the part of Government, leaving all questions on points of Mohummudan Law to be referred by the Judge of the Court of Circuit to the Provincial Law Officer under the provisions of Section XXIII Regulation VII of 1802.-

Ordered that extract of these proceedings be sent to the 3d Judge of the Court of Circuit in the Western Division by Precept desiring him to communicate the latter part to the Criminal Judge in the Zilla of North Malabar for his inform=tion and future guidance.-

Sent following Precept./

/Here enter B/

Read return, dated the 28th ultimo from the Criminal Judge in the Zilla of Chinglepute, to precept dated 16th instant calling for explanation of

2/ L.C.
4th Feby 1818.

of delay in the examination of certain persons reported as apprehended.-

/Here enter No. 88./

Read again letter, dated the 6th ultimo, from the Criminal Judge in the Zillay of Chinglepute, with reports prescribed by Section XXXV, Regulation X of 1816.-

/Here enter No. 14/

In explanation of the delay noticed in the Court's proceedings of the 16th ultimo the Criminal Judge in the Zilla of Chinglepute remarks that the Prisoner Umah, who was apprehended on the 12th of June last, was not forwarded to him by the Magistrate until the 15th of November following; that another prisoner named Colundo Cauttavarayen, who was apprehended in October, was not forwarded by the Magistrate until the 6th of December last, and that in these two cases, as well as in two other instances noticed by the Court, the Magistrate had omitted to send the Prosecutors along with the Prisoners as required by Clause Second Section XXIV Regulation IX of 1816.-

Referring

4th February 1818.

Referring to the two first cases here noticed, in one of which a delay of five and in the other a delay of two months would appear to have taken place before the prisoners were forwarded to the Criminal Judge, it becomes the duty of the Court to call upon the Magistrate of Chinglepút to explain the cause of a detention involving such a serious impediment to the administration of public justice.—

With respect to the other point noticed by the Criminal Judge the Court resolve to direct the attention of the Magistrate to the provisions of Section XXIV Regulation IX of 1816 and to desire that the Magistrate do in like manner call the attention of the Police Officers under his authority to the provisions of Section XXVII Regulation XI of 1816, particularly enjoining them to send prisoners to the Criminal Judge within the period therein specified and, where there may be a Prosecutor, to be careful that he accompany the prisoners and

4th February 1818. and witnesses under the provisions of Clause Fourth of the Section aforesaid.—

The Court have to observe in conclusion that much time would have been saved had the explanation which has now been submitted by the Criminal Judge of Chinglepút been entered in a column of his quarterly report and they accordingly desire that, in all similar cases, a short explanation of the cause of delay may be submitted in the Report for the information of the Sudder Adalut.—

Ordered that extract of these proceedings be sent to the Court of Circuit in the Centre Division by Precept enjoining them to make the necessary communication to the Magistrate in the Zilla of Chinglepút for the purposes here specified and to desire that his explanation be submitted to this Court with as little delay as possible.—

Sent following Precept.

Here enter C/

Ordered

Referring to the two first cases here noticed, in one of which a delay of five and in the other a delay of two months would appear to have taken place before the prisoners were forwarded to the Criminal Judge, it becomes the duty of the Court to call upon the Magistrate of Chinglepút to explain the cause of a detention involving such a serious impediment to the administration of public justice.—

With respect to the other point noticed by the Criminal Judge the Court resolve to direct the attention of the Magistrate to the provisions of Section XXIV Regulation IX of 1816 and to desire that the Magistrate do in like manner call the attention of the Police Officers under his authority to the provisions of Section XXVIII Regulation XI of 1816, particularly enjoining them to send prisoners to the Criminal Judge within the period therein specified and, where there may be a Prosecutor, to be careful that he accompany the prisoner and witnesses under the provisions of Clause Fourth of the Section aforesaid.—

4th February 1818.

The Court have to observe in conclusion that much time would have been saved had the explanation which has now been submitted by the Criminal Judge of Chinglepút been entered in a column of his quarterly report and they accordingly desire that, in all similar cases, a short explanation of the cause of delay may be submitted in the Report for the information of the Sudder Dewanny Adalut.—

Ordered that extract of these proceedings be sent to the Court of Circuit in the Centre Division by Precept enjoining them to make the necessary communication to the Magistrate in the Zilla of Chinglepút for the purposes here specified and to desire that his explanation be submitted through their Court with as little delay as possible.—

Sent following Precept.

Here enter C.J.

Ordered

4th February 1818.

Ordered also that extract of these proceedings be sent to the Criminal Judge in the Zilla of Chingleput for his information and future guidance.-

Sent following letter

/Here enter D/.

Read letter, dated the 26th. ultimo, from the Judge in the Zilla of South Malabar with report prescribed by Section XXXV Regulation X of 1816.-

/Here enter No. 97./

On examining the report of persons apprehended in the Zilla of South Malabar the Court find it stated in the Column of Remarks in No. 176. to No. 179 inclusive that the Complainant was sentenced to be fined 10 Rupees or confined 20 days for having preferred a malicious charge.-

The subsisting Regulations do not authorize the Criminal Judge to impose a fine on a Prosecutor in any case which may be brought before him, it being presumed that, under the previous enquiry required to be made

3/ Ft. 6.

4th Feby 13 1818.

made by the Police Officer or Magistrate as the case may be, a Person will not be brought before the Criminal Judge without some primâ facie evidence in support of the charge preferred against him.- In all cases, however, where the charge may appear to the Criminal Judge to be manifestly groundless, the Court are of opinion that he should communicate the dismissal of the charge to the Magistrate of the Zilla for the future guidance of that Officer or, if the prisoner shall have been forwarded to the Criminal Judge by a Police Officer, for the future guidance of such Police Officers.-

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zillay of South Malabar for his information and future guidance.-

Sent following letter

/Here enter E/

Read letter dated the 30th. ultimo, from the Criminal Judge in the Zillay of North Malabar,- with report prescribed by Section XXXV Regulation

4th February 1818

Regulation X of 1816.-

/Here enter No. 96./

Read letter, dated the 20th ultimo,

from the Criminal Judge in the Zilla of North Malabar,- with report prescribed by Section XXXVII Regulation X of 1816.-

/Here enter No. 93./

Read letter, dated the 26th ultimo,

from the Criminal Judge in the Zilla of Guntoor,- with report prescribed by Section XXXVII Regulation X of 1816.-

/Here enter No. 91./

Read return, dated the 25th ultimo,

from the Magistrate in the Zilla of Guntoor,- to precept dated 3d Instant calling for state=ments prescribed by Section XXX Regulation IX of 1816.-

/Here enter No. 84./

Read return, dated the 20th ultimo,

from the 2d Judge of the Court of Circuit for the Western Division,- to precept dated 6th instant calling for proceedings in case No. 11 of South Malabar Calendar and No. 1 Supplemental Calendar 2d Sessions A.D. 1817.-

/Here enter No. 85./

4th February 1818.

Read return dated 23d ultimo,

from the Magistrate in the Zilla of Vizagapatam, to precept dated 3d Instant calling for abstract Statement prescribed by Section XXX Regulation IX of 1816.-

/Here enter No. 98./

Read letter, dated the 26th ultimo,

from the Criminal Judge in the Zilla of Guntoor, with report prescribed by Section XXXV Regulation X of 1816.-

/Here enter No. 92./

Read letter, dated the 30th ultimo,

from the Magistrate in the Zilla of Chingleput, transmitting abstract Statement prescribed by Section XXX Regulation IX of 1816.

/Here enter No. 99./

Read letter, dated the 14th ultimo,

from the Magistrate in the Zilla of Salem,- with abstract Statement prescribed by Section XXX Regulation IX of 1816.-

/Here enter No. 86./

Read letter, dated the 28th ultimo,

from the Criminal Judge in the Zilla of Chingleput,- Reporting the arrival of a convict un sentence of transportation.-

/Here enter No. 87./

4th February 1818.

Read letter, dated the 27th ultimo, from the acting 3d Judge on Circuit in the Southern Division, - reporting the arrival of the Court of Circuit at Verdachellum -

Here enter No. 89.

Read letter, dated the 25th ultimo, from the Magistrate in the Southern Division of Arcot, - with Statements prescribed by Section XXX, Regulation IX of 1816. -

Here enter No. 95.

Read letter, dated the 29th ultimo, from the Magistrate in the Zilla of Chittoor, - with abstract Statement prescribed by Section XXX Regulation IX of 1816. -

Here enter No. 94.

Read letter, dated the 28th ultimo, from the Criminal Judge in the Zilla of Chittoor, - with reports prescribed by Sections XXXV and XXXVI Regulation X of 1816. -

Here enter No. 90.

R.A.

At a Court of the Foujdaree Adalut.

Monday 9th February, 1818

Present

Andrew Scott Esqr.
Edward Ross Greenway Esqr. } Judges.
George Stratton Esqr.

Read letter, dated the 31st ultimo, from the Criminal Judge in the Zilla of South Malabar - recommending the tender of a conditional pardon to two prisoners concerned and tried in cases of Gang robbery.

Here enter No. 120.

The Court resolve to submit the request of the Criminal Judge to Government without delay and to recommend that he may be authorized to make an offer of pardon to Nattadeyil Aswadee and Pattacholal Moola Marcar, on the condition specified in Section XX. Regulation VIII. of 1802.

Ordered that the foregoing letter be forwarded with extract of these proceedings to the Secretary to the Government in the Judicial Department for the purpose of being laid before the Right Honourable the Governor in Council. -

Sent following letter A.

4. 9th February 1818.

Read letter, dated the 31st ultimo, from the Criminal Judge in the Zillah of North Malabar, — recommending the offer of a pardon to certain prisoners on condition of their making a full disclosure of the circumstances of a gang robbery in which they were concerned.—

[Here enter N. 116.]

On consideration of the several circumstances of the case reported in the foregoing letter by the Criminal Judge of the Zillah of North Malabar and particularly of the very large amount of property alleged to have been carried off by the Gang, the Court of Foujdaree Adaulut resolve to recommend that the Right Honourable the Governor in Council may be pleased to authorize an offer of pardon to Vatta Packaren, Abdoola Chacoo, Colam Chacoo, and Chatil Veerain, four of the supposed accomplices in this case, on the conditions specified in Section XX Regulation VIII. of 1802.

In submitting the above letter to Government, the Court deem it necessary to explain, with reference to the second paragraph, that the Calendar therein referred to is the "Calendar of persons "discharged by the Criminal Judge" prescribed in Section XXIII Regulation X. of 1816.

Ordered

9th February 1818.

Ordered that the foregoing letter with extract of these proceedings be sent to the Secretary to Government in the Judicial Department, for the purpose of being laid before the Right Honourable the Governor in Council.

[Sent following letter &c]

Read letter, dated the 20th ultimo, from the Circuit Judge of Circuit in the Southern Division, — referring his proceedings held in case No. 1 of the Trichinopoly calendar — 1st Sessions of 1818.

[Here enter N. 69.]

Read also remarks of the Cazee and Mooftee of the Foujdaree Adaulut.

[Here enter Remarks]

The Court direct that the record of the Proceedings held in this case be returned to the Circuit Judge of Circuit in the Southern Division, accompanied by the remarks of the Law Officers of the Foujdaree Adaulut, in order that the omissions therein noticed may be duly supplied and that authenticated translations, in English and Persian, of all such additional proceedings may be annexed to the original records, which the Circuit Judge will return herewith with the several additional documents here specified, within three weeks from the date of the receipt of the Precept.

[Send following Precept &c]

Read

9th February 1818.

Read the following letters from the Criminal Judges in the Zillas of South Malabar and Cuddapah with reports prescribed by Section XXXVII. Regulation X. of 1816.

[Here enter No. 103 & 113.]

Read returns, dated the 24th. ultimo, from the First Judge on Circuit in the Western Division to the Courts precept of the 13th. ultimo, — calling for proceedings in case No. 9 North Malabar calendar 4th Quarterly Sessions of 1817.

[Here enter No. 111.]

Read Return, dated the 27th. ultimo, from the Second Judge of Circuit in the Western Division, to the Courts precept of the 10th. ultimo, — ordering communication to the Criminal Judge and the Magistrate in the Zilla of Canara of the Court's observations upon the proceedings in case No. 1 of Canara Calendar, — 2d. Sessions of 1817.

[Here enter No. 104.]

Read letter, dated the 30th. ultimo, from the Second Judge on Circuit in the Central Division, — stating that the Court of Circuit would not sit for Zillah on 31st. ultimo.

[Here enter No. 105.]

Read letter dated the 31st. ultimo from the Criminal Judge in the Zilla of Cuddapah, — with

No. 116.

9th February 1818.

the Hands list of convicts sentenced to transportation at the last Gaol Delivery.

[Here enter No. 106.]

Read letter, dated the 27th. ultimo, from the Criminal Judge in the Zilla of Cuddapah, — with reports prescribed by Section XXXV. Regulation X. of 1816.

[Here enter No. 107.]

Read letter, dated the 30th. ultimo, from the Acting Third Judge on Circuit in the Southern Division, — with copies of the Calendars of Commissioners and Cuddapah Sessions, — 1st. Sessions of 1818.

[Here enter No. 108.]

Read letter, dated the 27th. ultimo, from the Second Judge on Circuit in the Western Division, with warrant for execution of prisoners in case No. 2 Canara calendar, 2d. Sessions of 1817.

[Here enter No. 109.]

Read letter, dated the 30th. ultimo, from the Second Judge on Circuit in the Central Division, — with copy of Cuddapah calendar, 1st Sessions of 1818.

[Here enter No. 110.]

Read return, dated the 30th. ultimo, from the Magistrate in the Zilla of Bellary, to the Courts precept of the 3d. ultimo, — calling for statement prescribed

9th February 1818 prescribed by Section XXX Regulation IX of 1816.-

/Here enter No 111/

Read return, dated the 29th ultimo from the third Judge of Circuit in the Northern Division, to the Courts precept of the 15th ultimo, - enclosing communication to the Magistrate of Masulipatam of the Courts directions respecting the observation of the provisions of Sections V and XXVII Regulation XI of 1816.

/Here enter No 113/

Read return, dated the 25th ultimo from the Acting Magistrate in the Zillah of Nellore, - to the Courts precept of the 3d ultimo, - calling for Abstract Statement prescribed by Section XXX Regulation IX of 1816.-

/Here enter No 115/

Read letter, dated the 2d instant from the Acting Criminal Judge in the Zillah of Nellore, - with statements explanatory of the proceedings animadverted upon in the Courts letter of 24th ultimo

/Here enter No 116/

R. A.

J. A.

At a Court of the Sudder Adalut.-

Present,

Tuesday 10th February 1818.- Andrew Scott Esqre. Edward Croft Greenway Esqre. George Stratton Esqre. } Judges.-

Read letter, dated the 25th ultimo, from the 2d Judge of the Court of Circuit for the Northern Division, - with copy of the Nellore Calendar 1st Sessions A.D. 1818.-

/Here enter No 102/

In the letter which accompanies the copy of the Nellore Calendar, the second Judge on Circuit observes that much unnecessary delay would be obviated were an additional copy of the Calendar to be prepared by the Criminal Judge of the Zillah of Nellore in the Gentoo Language, according to the practice observed in the other Zillahs of the Division, inasmuch as the Gomashtah, who is in attendance on the Court of Circuit, might ascertain the names of witnesses and other particulars by immediate reference

2d February 1818 ... 1816

10th February 1818

of the Prosecutor and was not attended with any
circumstances of aggravation it might be considered
punishable by the Criminal Judge under the authority
vested in him by the Regulations, but if the latter
part of the abstract be incorrectly worded and
the Prisoner be accused of the crime of Burglary
according to the legal definition of that offence,
the accused should unquestionably be brought
to trial before the Court of Circuit. It is to
be presumed that the Criminal Judge of
Nellore will have tried and sentenced the
Prisoner in question, under the injunctions
of the Court of Circuit, before the receipt
of these orders, but if not, he will be guided,
in his future proceedings on the case, by
the observations which the Court of Judicature
then
Adalut deemed it necessary to record.—

Ordered that extract of these
proceedings be sent to the Second Judge
on Circuit in the Northern Division
by Precept desiring him to communicate
the same to the Criminal Judge in the
Zillah

2d Feb.

10th Feby 1818.

Zillah of Nellore for his information and
guidance.—

Sent following Precept—

[Here enter No.]

Read return, dated the 26th ultimo,
from the Provincial Court of Circuit in the
Western Division,— to precept dated 7th ultimo,
ordering transmission of the copy of the Futwa
passed in Case No 7 North Malabar Calendar
4th Quarterly Sessions A.D. 1817.—

[Here enter No. 101.]

To appears from the Futwa passed in case No. 7 of the North Malabar
Calendar for the 4th Quarterly Sessions of 1817
that the Prisoner was declared by the Law
Officer of the Court of Circuit to be guilty of
the crime of "Kutt-u-Mottuk" and liable
to suffer Deiyut for the crime aforesaid; and
it further appears, on reference to the Abstract
of the Sentence passed by the Court of Circuit,
that the said Prisoner was sentenced "under
"Deiyut to three years' imprisonment to
and

† Read your letter dated the 20th Dec.r Last, from the Joint Judge of the Court of Circuit in Western Division with copy of North Malabar Calendar 4th & 2d Sessions of 1817.

reference to the Calendar instead of being obliged to refer to the Judge to the interruption of the business of the Court.—

The above suggestion of the second Judge appears to be well calculated to expedite the business of the Court of Circuit, and as the proposed measure does not seem open to any objection the Court authorize the second Judge on Circuit to issue the necessary instructions to the Criminal Judge in the Zilla of Nellore for the observance of the practice abovementioned at all future Sessions of Jail delivery.—

The Court of Foujdaree Adaulut also concur in opinion with the Judge that the substance of the charge against each prisoner should be briefly stated in the Column of the Calendar appropriated for "abstract of charges and date on which they were preferred" and that the names of such witnesses as attest the declaration of a Prisoner should be included in the Column set apart for the "names of the prosecutor "witnesses

"witnesses" in order that the necessary infor=
=mation regarding the several cases enumer=
on the Calendar may be obtained, at one view,
by the Judge of the Court of Circuit.— The second
Judge will communicate the sentiments of
the Court for the future guidance of the
Criminal Judge in the Zilla of Nellore.—

With regard to the case No. 11
which the second Judge has returned to the
Criminal Judge it appears, on reference to the
Abstract of the Charge, that the Prisoner is
charged "with having "the Prosecutors house and stolen some
"property to the value of Rupees 16-4-20.
"on the 20th Day of May 1817."—

From the wording of the charge it
seems doubtful whether the offence of
which the prisoner in this case is accused
does or does not fall within the denomi=
=nation of Burglary.— If it should not
the Prisoner has been committed for trial
only to a theft in the day time from the house

Adverting to the nature of the Crimes of which the Prisoner is declared to be convicted, the Court have to observe that the trial should have been referred for their final sentence, since the regulations enjoin that, in all cases where the Futwa of the Law Officer may declare the Prisoners to be convicted of express murder, but not liable to capital punishment upon any particular grounds of Mahomedan Law, the Judge is to refer the proceedings for the sentence of the Fuujdaree Udalut, and it is only when the prisoner may be acquitted of express murder but convicted of homicide of any one of the four denominations distinguished in the Mahommedan Law, viz. Sheibuh-i-umd, Kutt-i-Khuta, Kutt-i-Jaqim-Mokamubbi Khuta and Kutt-bu bubub; that the Courts of Circuit are empowered to pass sentence and to cause them to be carried into execution without reference to the Fuujdaree Udalut: Now the Law Officer

offence of Kutt-i-Mookuh, of which this Prisoner has been found guilty, does not fall within any one of the four denominations above specified: it is, in fact, in almost every case intrinsically the same with the offence technically denominated Kutt-i-Umd or express murder, and the exceptions on the ground of which a sentence of Kisaas would be barred under the Mahomedan Law are such as the Court of Fuujdaree Udalut are empowered to overrule under the powers vested in them by the general Regulations.

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Western Division for his information and future guidance.

Sent following Letter.

R.A.

(Here enter B)

At a Court of the Toujdarree Udalut

Wednesday
4th February 1818

Present

Andrew Scott Esqr.
Edward Croft Greenway Esqr. } Judges.
George Stratton Esqr.

Read letter, dated the 19th ultimo
from the Second Judge of Circuit in the Western Division
referring his proceedings held on case No 11 of the South
Malabar Calendar 2nd Sessions of 1817.

Whereunder No 744

The Court having maturely weighed the pro-
ceedings held before the Judge on Circuit, the futwa
of the Provincial Law Officer and the futwa of the
Cazee ul Cozat and Mooftee of the Toujdarree Udalut
confirm the said futwa of the Cazee ul Cozat and Mooftee
aforesaid and acquitting the prisoners

1st Kariehen,

2d Korasspan, and

3d Kandeo

direct that they be released according[illegible]

Sent following letter No 1

Read letter, dated the 3rd instant
from

11th February 1818.

from the Assistant Criminal Judge in charge of the gaol of Seringapatam, with statement explanatory of the circumstances communicated upon by the Court in their letter of 19th ultimo.

(Recorded No. 119.)

The explanation of the circumstances noticed by the Court of Trinjalore Adalut in their proceedings of the 19th Ultimo, the Assistant Criminal Judge states that the four prisoners in question were admitted to bail under the orders of the Court of Circuit and the Assistant Criminal Judge expresses a hope that he will be relieved from the charge of "negligence and want of attention to the Regulations which appears to attach to him from the circumstance of the four prisoners having been at large upon bail by order of the Judge of Circuit.

The explanations here submitted by the Assistant Criminal Judge shew the proceedings to have been strictly legal, it being competent to the Judges of the Courts of Circuit on satisfactory information before them to authorize the Criminal Judges to accept sufficient bail for persons charged with offences not bailable under the general Regulations - that the Assistant Criminal Judge instead of directly noticing in the report that

11th February 1818.

the prisoners in question (who were charged with theft an offence not bailable under the general regulations) were at large upon bail, explained at the same time that they had been admitted to bail under the orders of the Court of Circuit, no ground could have been given to the Trinjalore Adalut for those observations which, on the face of the Report before them, it was their duty to record.

Ordered that extract of these proceedings be sent to the Assistant Criminal Judge in the gaol of Seringapatam, for his information.

(Sent following letter K.)

Read letter, dated the 28th ultimo, from the Secretary to Government in the Judicial Department, stating that a plan has been received from the Military Board of a Jail at Masulipatam, which has been sanctioned by Government and that the Military Board have been informed that until the Superintending Engineer for the Northern Division can execute the work without further delay it will be expedient to authorize the Criminal Judge to undertake it - also approving of the order for providing custom of the

(Recorded letter No. 124.)

* corrects with accompanies, the estimate of which expenses must be submitted for sanction by the Criminal Judge.

The Court direct that copy of the foregoing letter, and extract from the Courts proceedings of

11th February 1818.

of the 1st December last be sent to the third Judge of the Court of Circuit in the Northern Division, to be by him communicated to the Criminal Judge in the Zillas of Masulipatam for his information and guidance.

Sent following letter C/

R.K.

E.C.S

M

G.W

J. U

At a Court of the Foujdaree Udalut

Present

Saturday 14th & 16th 1818. Andrew Scott Esqre ... Edward Croft Greenway Esqre ... George Stratton Esqre ... } Judges.

M

G.W

E.C.S

Read letter, dated 28th Ultimo, from the 3d Judge of the Court of Circuit in the Western Division, — forwarding, for the consideration of the Court, copy of a precept issued by him to the Assistant Magistrate, and copy of a letter from the Magistrate of Malabar appealing against the injunctions contained in the said Precept. —

/Here enter No. 114/

It would appear, that the attention of the Third Judge of the Court of Circuit was directed, in the first instance, to a complaint which had been preferred before the Assistant Magistrate of Malabar and by him referred to the Tellicherry Serishtadar for investigation and report; that, on inspecting the Assistant Magistrate's proceedings sent up with his Calendar, he was ~~found~~ to have entrusted in the same manner to his native Officers the majority of the cases preferred before him with little or no investigation by himself; —

that

"entertains doubts and that they are accordingly forwarded
"to the Magistrate &c.a."—

The practice here stated to have been followed by the Police Officers is founded in error and wholly adverse to the provisions contained in the Section above quoted which expressly declares that all cases of the nature therein specified are to be referred to the Criminal Judge who will proceed in each case so referred to him in conformity with the Regulations enacted for his guidance.—

Section XIV Regulation IX of 1816, on which the Magistrate attempts to justify the practice which called forth the remarks of the Third Judge applies only to cases where the Magistrate may see cause to distrust the truth of a complaint preferred to him and it is further to be observed that the enquiry therein contemplated is declared to be only a preliminary measure and that, whenever the result of such enquiry shall induce the Magistrate to believe the charge well founded, it is imperative upon him to enter into an investigation of the same in the manner pointed out in the Regulations.

On the remaining part of the Magistrate's letter the Court will only observe generally

by

J. C.
14th Feby 1818.

generally that, according to the exposition given in these proceedings, the only cases regularly referrible to a Magistrate by a Police Officer are those which the Magistrate is competent to hear and determine under the provisions of Sections XXXII and XXXIII Regulation IX of 1816; that the course of proceeding enjoined for the observance of a Criminal Judge, in all cases referred to him, whether by a Magistrate or by a Police Officer, must apply a fortiori to the cases which may be referred by a police officer for the determination of the Magistrate, and that in every case therefore which may be so referred to the Magistrate by a Police Officer it is the duty of the Magistrate strictly to adhere to the rules laid down in Section XXIV Regulation IX of 1816 with the exception of not making the examinations matter of record in the petty cases specified in Section XXXVII of that Regulation.

In conclusion the Court desire with reference to the former part of these proceedings that the Magistrate of Malabar will report, for their information, the nature of the office of the Tellicherry Serristasar in virtue of which this person, who does not come within the designation of the officers entrusted with Police authority under Section III Regn XI of 1816, has been authorized to discharge the duties of Police.—

Ordered that extract of these proceedings be sent to the Third Judge of the Court of Circuit in the Western Division by Precept desiring him to communicate

that some of the complaints had not been preferred on oath and that, in some of the examinations taken by the Assistant Magistrate, there was a variation in the dates as written by the Native writers and as certified by himself.—

A precept was issued, in consequence, by the Third Judge on the 30.th of August last whereby the Assistant Magistrate was enjoined not to determine in future upon any case which he might be authorized to try, except upon a full investigation conducted by himself, and he was directed to be careful that in each case the charge be deposed to either by the Complainant or in the manner required by the Regulations when satisfactory reason may be assigned for the non-attendance of the Complainant.— The original complaint which had first attracted the Notice of the Third Judge was also returned to the Assistant Magistrate with directions to summion and examine the parties and their witnesses and then to pass such orders as might appear to him just and proper, forwarding his proceedings for the information of the Court of Quarterly Sessions.—

On

On the orders which were passed by the Third Judge on the occasion here referred to, the Court of Foujdaree Udalut consider it sufficient to observe that they appear to have been fully borne out by the circumstances which gave rise to them and that they are obviously consistent, as well with the general provisions of the Regulations in force, as with the first and acknowledged principles of justice.—

In the letter, however, which was addressed on the 26.th of December last by the Magistrate of Malabar to the Court of Circuit for the Western Division there are certain passages which cannot be passed over without observation, inasmuch as they imply an erroneous conception of the intent and meaning of several of the recent Criminal Enactments.—

In the first place the Magistrate observes that "cases coming under the "description of those set forth in Section XXVIII "Regulation XI of 1816 are sent direct to the "Criminal Judge;" but that "others of the "same nature occur in which the Police Officer entertains

communicate the same to the Magistrate of Malabar for his information and guidance.—

Return to be made within fifteen days from the date of the receipt of the Precept

/Sent following Precept A/

Read letter, dated 5th instant, from the 2d Judge of the Court of Circuit for the Southern Division,— With comparative statement shewing the number of commitments in 1817 to fall far short of the average of the seven preceding years.

/Here enter No 123/

In the column of Remarks annexed to the above comparative Statement, which the Second Judge of the Court of Circuit in the Southern Division has transmitted as an appendix for the 2d Sessions 1817, to his Report it is remarked that the Calendars of the Zillas of Combaconum, Verdachellum, Salem Coimbatore, & Tinnevelly for the 2d Sessions of 1810 & the Calendars of Madura & Tinnevelly for the 1st Sessions of 1811, having been mislaid, the total number of commitments in the three first mentioned Zillas for the year 1810 and in the two last mentioned Zillas for the years 1810/11 have not been included in the Statement.—

It appears, on reference to the records of this Office, that the Court are enabled to

to supply the deficiency for the year 1810; but that Calendars for the 1st Sessions of 1811 were not received from the Zillas of Madura and Tinnevelly, the Judge on Circuit having been prevented, by a severe attack of the fever then raging in the Southern Provinces, from proceeding to deliver the jails at the two Zillas aforesaid.—

Ordered, therefore, that the Columns of Commitments for the 2d Sessions of 1810 be filled up and that the Statement be forwarded, with extract of these proceedings, to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.—

/Sent following letter B/

Read letter, dated 7th instant, from the 1st Judge of Court of Circuit in the Southern Division,— Reporting the state of the Jail and number of Prisoners in the Zillas of Trichinopoly.

/Here enter No 126/

With reference to that part of the Court's proceedings of the 8th July 1816 which relates to the state of the Judicial Buildings at Trichinopoly, the Court direct that the foregoing

11. 14. 14th February 1818

foregoing letter be forwarded to the Secretary to Government in the Judicial Department to be by him submitted to the Right Honorable the Governor in Council.—

/Sent following letter C./

Read Return, dated 6th instant, from the Criminal Judge in the Zilla of Chittoor,— to the Court's precept dated 26th Ultimo calling for explanation of his delay in certain Criminal Cases.

/Here enter No. 121/

M R.A.

G.W.

E.C.S.

J. U.

At a Court of the Foujdaree Udalut

Present

Monday 16th February 1818.

Andrew Scott Esqre
Edward Croft Greenway Esqre
George Stratton Esqre
} Judges

M

E.C.S.

G.W.

Read letter, dated 31st Ultimo from the 1st Judge of the Court of Circuit in the Western Division,— transmitting his proceedings held in Case No. 2 of the Canara Calendar for the 1st Sessions A.D. 1818.—

/Here enter No. 117/

The Court having maturely considered the Proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool Coozat and Mooftees aforesaid and, under the provisions of Clause Fifth, Section IV Regulation XV of 1803, adjudge the Prisoner

"Bella Dandoo"

to be imprisoned and transported to Prince of Wales's Island, there to be imprisoned and kept

on the public roads & other public works

kept to hard labour in irons for and during the period of his natural life.—

Sent following letter

/Here enter A/

Read return, dated 7th instant, from the Criminal Judge in the Zilla of Nellore,— to the Court's precept dated 5th instant calling for report prescribed by Section XXXV Regulation X of 1816.—

/Here enter No. 127/

Read return, dated 9th instant from the Provincial Court of Circuit in the Centre Division,— to the Court's precept dated 29th Ultimo ordering communication to the several Magistrates within their jurisdiction of the Court's instructions that all official acts done in their Capacity of Magistrate can be attested by them only under that designation;—

/Here enter No. 128/

Read return, dated 9th instant, from the Criminal Judge in the Zilla of Canara, to the Court's precept dated 21st Ultimo calling on him to explain the Reason of the delay in certain

Criminal

Criminal Cases depending before him—

/Here enter No. 129/

Read letter, dated 9th instant, from the 2d Judge on Circuit in the Northern Division,— Reporting his arrival at Guntoor

/Here enter No. 131/

Read letter, dated 10th instant, from the acting 3d Judge on Court of Circuit in the Southern Division;— Reporting his arrival at Salem.—

/Here enter No. 132/

Read letter, dated the 10th instant, from the Secretary to Government in the Judicial Department,— authorizing the Zilla Judge of South Malabar to make a conditional offer of pardon to certain persons.—

/Here enter No. 135/

Ordered that copy of the foregoing letter be sent, with extract from the Court's proceedings of the 9th instant, for the information and guidance of the Criminal Judge in the Zilla of South Malabar.—

Sent following letter

/Here enter B/

11.

16th February 1818.

Read letter dated the 11th instant, from the Criminal Judge in the Zilla of Nellore, with reports of prisoners sentenced by the Court of Circuit, of prisoners confined under sentence and of Criminal cases depending on 31st December 1817.

/Here enter No. 130/

In the last Column of the Report of Criminal cases depending on the 31st December 1817, which is appropriated for "explanations of "considerable delay or other remarks," it is stated that the enquiry into the charge against the Prisoners, No. 1 and 2, has been postponed owing to the non-attendance of the Prosecutor and witnesses.

The Court desire that the Criminal Judge of Nellore will report, for their information, whether any and what steps have been taken in order to procure the attendance of the Prosecutor and witnesses here mentioned.

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Nellore by Precept desiring him to make return within five days from the date of its receipt.

Sent following Precept.

/Here enter 6/

J. U.

At a Court of the Sovjdaree Adalut

Present,

Thursday 19th February 1818.

Andrew Scott. Esqre
Edward Croft Greenway Esqre
George Stratton Esqre
} Judges

Read letter, dated the 6th instant, from the Second Judge on Circuit in the Centre Division,- submitting case No. 23 Cuddapah Calendar 1st Sessions A.D. 1818.

/Here enter No. 125/

Read also remarks of the Cazee-ool-Cozzat and Mooftees of the Sovjdaree Adalut

/Here enter Remarks/

The Court direct that the record of the Proceedings held in this case be returned to the Second Judge on Circuit in the Centre Division, accompanied by the remarks of the Law Officers of the Sovjdaree Adalut, in order that the omissions therein noticed may be duly supplied and that authenticated translations, in English and Persian, of all such additional proceedings

19th February 1818

Criminal Judge of the latter Zilla has deemed it necessary to take and authorize him to set the aforesaid Prisoner at liberty in the mode pointed out by the Court of Foujdaree Adalut in their Circular instructions of the 3d October last.-

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Cuddapah for his information and guidance.-

Sent following letter.

/Here enter No. 132./

Read letter, dated the 11th instant from the Second Judge on Circuit in the Centre Division, Reporting his arrival at Bellary.-

/Here enter No. 133./

Read letter, dated the 11th instant, from the acting Criminal Judge in the Zillas of Trichinopoly,- With report prescribed by Section XXXVII Regulation X of 1816.-

/Here enter No. 134/

Read return, dated the 13th instant, from the Provincial Court of Circuit in the Southern Division,- to precept dated 29th ultimo ordering

2/8.A.

19th February 1818.- ordering communication to the several Magistrates within their jurisdiction of the Courts instructions relative to their official signature.-

/Here enter No. 138./

Read letter, dated the 13th instant, from the Criminal Judge in the Zilla of Verdachellum,- with reports prescribed by Section XXXVI Regulation X. of 1816.-

/Here enter No. 139/

Read letter, dated the 11th instant, from acting Judge in the Zilla of Trichinopoly with the reports prescribed by Section XXXVII Regulation X of 1816.-

/Here enter No. 140./

Read return, dated the 11th instant, from the Provincial Court of Circuit in the Western Division,- to precept dated 29th ultimo ordering communication to the several Magistrates within their jurisdiction of the Courts instructions relative to their official signature.-

/Here enter No. 141./

Read

19th February 1818

Read letter, dated the 9th instant, from the Secretary to Government in the Judicial Department, stating the permission of Government for the Cazee of the Provincial Court Western Division, being allowed to draw his pension at Furruckabad and that the Government at Fort William have been requested to make it payable at that place from the 1st of December 1815 the date of his retirement from office.

/Here enter No. 136./

Ordered that the above resolution of Government be communicated to Mohammed Mukhdoom Bushurat the brother of Moulanee Ghoolam Rusool for his information.

Read letter dated the 10th instant, from the Secretary to Government in the Judicial Department, authorizing the Criminal Judge of North Malabar to offer a conditional pardon to the persons referred to in the Court's proceedings of the 9th Instant.

/Here enter No. 143/

Ordered

19th February 1818

Ordered that copy of the foregoing letter be sent, with extract from the Court's proceedings of the 9th instant, for the information and guidance of the Criminal Judge in the Zilla of North Malabar.

Sent following letter.

/Here enter 6/+

At a Court of the Foujdaree Udalut

Present

Wednesday
25th Feby 1818.

Andrew Scott Esqre
Edward Croft Greenway Esqre
George Stratton Esqre
} Judges

Read letter, dated 6th instant, from the 2d Judge of the Court of Circuit for the Southern Division, — Referring trial No 4 Trichinopoly Calendar 1st Quarterly Sessions A.D 1818 and calling the attention of the Court to the neglect of police Duties by the Native Revenue Officers which he states to be a matter of daily observation. —

/Here enter No 122/

The Court, having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool Coojat and Mooftees of the Foujdaree Udalut, confirm the said futwas of the Cazee-ool Coojat and Mooftees aforesaid and accordingly direct that the Prisoner

"Mootoo Curpen"

be released on producing Security for his future good behaviour and appearance when

-ber required.—

Sent following letter A/

The Proceedings held in this case are open to certain observations which the Court of Fouzdaree Udalut consider it necessary to record.—

The Tahseldar of the Tooroor district in the Zilla of Trichenopoly states, in his arzee to the Criminal Judge, that as he was absent on Revenue business he sent the Taloor Gomastah and others to inquire into the case according to the Regulations and that, on their arrival at the place, they inspected the body in the presence of witnesses and "examined the case according to the Regulations."

It is to be presumed that the provisions contained in the several clauses of Section XIII Regulation XI of 1816 are those to which the Police Officer here alludes; but, on reference to the Clauses of the Section aforesaid, it will be found that whenever the Police Officer of the district may not be able to attend to conduct the enquiry therein prescribed, it is the Head of the Village where the body may have been discovered who is commanded to enter upon the investigation, in conjunction with the curnum of such Village and

and consequently that the Gomastah of the district, underwhose superintendence the investigation was made in the present instance, do not possess any authority to conduct the inquiry.—

The Court observe, further, that the declarations of the Prosecutor and Prisoner before the Tahseldar of the Razeepooram district in the Salem Zilla are not attested by the signature of that Officer.—The Court desire that the omission be brought to the notice of the Tahseldar by the Magistrate of Salem and that he be directed, in all cases where persons may be examined before him, to affix his signature to such examination in attestation of their having been taken in his presence.—

The next point which presents itself to the observation of the Court is the want of the signatures of witnesses to the declaration made by the Prisoner before the acting Criminal Judge of Trichinopoly.—This declaration of the Prisoner, although it does not contain an acknowledgment of the Crime laid to his charge, attaches

attaches suspicion to his conduct, and it was therefore the duty of the acting Criminal Judge to have it attested by as many creditable persons as the Mohummudan law requires to give it validity.—

With regard to the several irregularities here pointed out, the Court of Foujdaree Udalut deem it incumbent upon them further to observe that it would have been proper in the Judge who presided at the trial to have noticed the same to the several European local authorities and the Court accordingly desire that, whenever the records of proceedings, which may be delivered to him at the Sessions of Jail delivery, exhibit instances of departure from the regulations, he be careful to notice the same and to issue such orders thereon as he may deem just and proper for the future guidance of the local officers.—

In conclusion the Court have to direct the attention of the Judge who presided at the trial to a defect in his proceedings, in that he omitted to call before him the witnesses to the declaration made by the Prisoner before the Tahsildar of Rajeepooram.—The omission is noticed by the Law Officers in the futwa which they have delivered on the trial, and when it is considered that the statement

25th February 1818. statement contained in the said declaration is repugnant to the plea set up by the Prisoner on his defence (a circumstance which, supposing the former declaration to have been duly authenticated, would have furnished an additional ground of suspicion against the Prisoner), it is obvious that the omission abovementioned is in a matter material to the issue of the case.—

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Southern Division for his information and future guidance; and that he be by precept commanded to make the necessary communication to the acting Criminal Judge in the Zilla of Trichinopoly for the information and future guidance of that Officer as also to the Magistrates of Trichinopoly & Salem respectively for the purposes herein specified.—

Sent following Precept B/

Read letter, dated 13th instant, from the Criminal Judge of the Zilla of Tinnivelly.—acknowledging receipt of extract from proceedings of 24th Ultimo and enclosing list of persons in

confinement

confinement under Sentence to give Security, — regarding whom he begs the instructions of the Court. —

/Here enter No 144/

Read also letter, dated 14th instant from the Criminal Judge in the Zilla of Tinnevelly, — begging permission to recall his letter dated 13th Instant and stating his intention to rescind the Sentences therein reported to have been passed on certain persons ordered to find Security. —

/Here enter No 146/

The line of conduct which, according to the intimation conveyed in the second of these two letters, the Criminal Judge of the Zilla of Tinnevelly intends to pursue, renders it unnecessary for the Court to issue any further orders regarding the disposal of the persons referred to in the foregoing communications. — As the Court, however, are led to infer from a passage in the Criminal Judges' letter of the 17th instant, the nature of which remains unaltered by the subsequent communication, that he has not clearly comprehended the grounds of the orders of

of the 24th Ultimo, they consider it proper briefly to explain the same for his information. —

The Criminal Judge expresses his regret that the Sentences in question have not met the sanction of the Foujdaree Adalut and sees that he shall in consequence be careful not to pass such sentences in future. —

This observation of the Criminal Judge would seem to arise from a supposition that the measure in question was one of a discretionary nature and that he had only been making an exercise of discretion in the present instance which, he regretted to observe, had not met with the sanction of the Foujdaree Adalut: but, on reference to their orders of the 24th Ultimo, the Criminal Judge will observe that he is directed to discontinue the practice, not simply as inexpedient in itself, but as being unwarranted by the Regulations. —

With regard to the representation, made by the Criminal Judge, of the particular circumstances under which he considered it expedient to demand Security for good behaviour, the Court have to remark that the

the degree of evidence sufficient for conviction under the Mohummudan Law can be properly determined only when the Case shall come to be heard before the Court of Circuit, and that whenever a person may be charged before a Criminal Judge with having committed an offence not punishable by that officer and it may appear to the Criminal Judge, from the best evidence procurable in the case, that there is ground of a strong suspicion against the accused, it is the duty of the Criminal Judge to commit such person to take his trial before the Judge of the Court of Circuit, with whom it will remain to exercise the discretion vested in him, "in all "cases of strong suspicion, though not amounting to conviction, as well as upon proof of "notorious bad character" under the provisions of Clause Sixth Section II Regulation XV of 1803.—

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Tinnevelly for his information and future guidance.—

Sent following letter
/Here enter C/

3/ F. C.

25th Feby 1818.

Read return, dated 16th instant, from the 1st Judge of the Court of Circuit in the Northern Division,—to the Court's precept dated 28th Ultimo calling for report prescribed by Section XXXVII Regulation X of 1816.—

/Here enter No 149/

Read also letter, dated 16th instant, from the 1st Judge of the Court of Circuit in the Northern Division,—submitting the Report prescribed by Section XXXVII Regulation X of 1816.—

/Here enter No 148/

Ordered that the foregoing Report be forwarded to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.—

/Sent following letter D/

Read return, dated 13th instant, from the Provincial Court of Circuit in the Northern Division,—to the Court's precept dated 29th Ultimo, ordering communication to the Magistrates in their jurisdiction of the Court's instructions respecting their official

official Signature. —

/Here enter No. 142/

Read letter, dated 14th instant, from the Criminal Judge in the Zilla of Combaconum, With report prescribed by Section XXXVI Regulation X of 1816. —

/Here enter No. 147/

Read letter, dated the 17th instant, from the 2d Judge on Circuit in the Northern Division, — enclosing copy of precept issued to the Magistrate of Guntoor and requesting the instructions of the Court as to whether deviations from the Regulations noticed in the proceedings of the Magistrates and Police Officers should be pointed out by the Court of Circuit to Magistrates or reported to the Sudder Adalut. —

/Here enter No. 152/

Whenever the proceedings of a Magistrate or a Police Officer, as connected with any Criminal case brought before the Judge of a Court of Circuit, shall exhibit

exhibit a departure from the Regulations involving only an error of Judgment or a slight default, it is competent to the Judge to issue such orders as he may deem just and proper; and it is only in cases where the Magistrate or Police Officer shall appear to the Judge of Circuit to have been guilty of neglect or misconduct in the discharge of his duty, or where a Magistrate may omit or refuse to obey his orders, that it becomes necessary to report the same to the Court of Sudder Adalut for the information and orders of Government. —

Ordered that extract of these proceedings be sent to the second Judge on Circuit in the Northern Division for his information and guidance in the Suit following. letter —

/Here enter D.J.S.

M. R.K.

25th February 1818.

The Deputy Register represents to the Court that no return has been received from the 2d Judge of the Court of Circuit in the Southern Division to the Precept issued to him under date the 24th November 1817 directing him to communicate to the Criminal Judge in the Zilla of Tinnevelly of the Courts observations in Case No 1 of the Tinnevelly Calendar for the 2d Sessions of 1817.

Ordered that the 2d Judge of the Court of Circuit in the Southern Division be by precept commanded to explain the cause why he has not obeyed the exigence of the Precept dated 24th November 1817.

Return to the precept to be made within five days from and after its receipt.

E.C.G

Sent following Precept.

/Here enter E/

G W M

F. 6

In Court of the Foujdaree Udalut

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges
George Stratton Esqre

Friday 27th Feb'y 1818.

Read letter, dated 13th instant, from the Criminal Judge in the Zilla of Cuddapah, - Requesting the opinion of the Court as to his competency to proceed against Nurseeyandoo upon information derived from the Records of his Office in cases - where information may not have been given by the Magistrate, and also as to his power to proceed against him on a charge of contumacy in the event of there not being proof of the greater offences with which he is charged -

G W M

E.C.S

/Here enter No 150/

In regard to the second question here proposed by the Criminal Judge of the Zilla of Cuddapah, the Court deem it necessary only to observe that Regulation XIII of 1809 having been rescinded and the penalties therein declared against acts of contumacy having been altogether removed, the prisoner cannot be put

M-

upon his trial to answer to a charge which
would not subject him, on conviction, to any penal
consequences in law. —

But with respect to the other
Question submitted for their determination, it
appears that the Prisoner, Sungum Nursegaudoo,
has been apprehended and sent in to the Criminal
Judge after reiterated proclamations in which
rewards to a considerable extent were offered
for his apprehension, and the Court hold that
it is competent to the Criminal Judge to
proceed against Nursegaudoo on any one or
more of the charges which led to the offer of
such rewards in order to ensure the apprehension
of this delinquent who has at length been handed
over to the officers of justice. —

On the general Question submitted
by the Criminal Judge as to the validity of
the proclamations issued under the provisions
of Regulation XIII of 1809, the Court are of opinion
that, as Regulation XIII of 1809 has ceased to
operate and as the law which rescinded that Regu-
lation does not authorize the offer of rewards
in the manner and on the terms specified in the
said

27th February 1818.

said rescinded Regulation, all proclamations issued
for the apprehension of notorious offenders during
the operation of the old law should be forthwith
recalled and that any recommendations which
the local authorities may consider it expedient
to make in regard to issuing proclamations,
in a modified form, ~~for the apprehension of~~
~~the notorious offenders in question~~ and re-
-newing the offers of rewards for the appre-
-hension of the notorious offenders in question should be submitted, through the
Foujdaree Adalut, for the determination of
Government. — Under this exposition of the
law as it now stands it becomes necessary
that a fresh application should be made
for the sanction of Government to the
payment of the reward which was formerly
offered for the apprehension of the Prisoner
Sungam Nursegaudoo. —

Ordered that extract of these
proceedings be sent to the Criminal Judge in
the Zilla of Cuddapah for his information &
guidance & to be by him communicated for the
information & guidance of the Magistrate of that
Zilla. —

Sent following letter A/

Read

27th February 1818

27th February 1818.

Read letter dated 19th instant from the acting 3d Judge on Circuit in the Southern Division, – with Copy of Salem Calendar 1st Sessions A.D 1818. –

/Here enter No 153/

Read letter, dated the 18th instant, from the 2d Judge on Circuit in the Centre Division with Copy of Bellary Calendar 1st Sessions A.D. 1818. –

/Here enter No 154/.

Read letter, dated the 17th instant from the 2d Judge on Circuit in the Centre Division, – Reporting his intention of leaving Bellary for Chingleput on 18th Instant. –

/Here enter No 155/

Read Return, dated 17th instant from the 3d Judge on Circuit in the Northern Division to the Court's precept dated 24th November ordering communication to the Criminal Judge of the subpatam of the Court's orders respecting an insane prisoner in Case No 6 Masulipatam Calendar 4th Quarterly Sessions A.D. 1817. –

RA.

/Here enter No 156/

EC

J. U.

At a Court of the Zillah Adalut

Monday 2d March 1818

Present

Andrew Scott, Esqr.
Edward Croft Greenways, Esqr. } Judges
George Stratton, Esqr.

Read Letter, dated the 19th instant, from the Second Judge on Circuit in the Northern Division, – respecting the case of an insane prisoner for the orders of the Zillah Adalut.

/Here enter No 159/

It appearing from the evidence recorded on these Proceedings that the Prisoner Rajalee Surrapah has for five or six years past been subject to occasional fits of insanity and that he frequently commits acts of violence while under the influence of such insanity;

The Court direct that the Criminal Judge in the Zillah of Guntoor be commanded to ascertain whether the friends of the Prisoner are able and willing to undertake such care of him as may prevent the possibility of his doing any mischief, and, in such case, to deliver him into

into their charge; and that in the event of any
willingness or inability on their part to receive charge
of the Prisoners, the Criminal Judge be required
to confine them in such place and manner as
consistently with a regard to the public safety
shall to him appear expedient, until the ar-
rangements now in progress relative to the establish-
ment of a Lunatic Hospital at Masulipatam shall
finally carried into effect; when it will be the
duty of the Criminal Judge to forward the Prisoners to the
Criminal Judge in the Zilla of Masulipatam
in order to his being confined in the general ward
ordered to be established at the said Station
for the reception of Lunatic prisoners within the
same.

Ordered that extract of these proceedings be sent to the Second Judge of Circuit in the Northern Division by first post desiring him to communicate the same to the Criminal Judge in the Zilla of Guntoor, for his information & guidance.

Sent following Precept A.

Read letter, dated the 19th ultimo from the Second Judge of the Court of Circuit in the Western Division, & the annexed precept of the 24th calling for report prescribed by Section XXVII

2d March 1818

of 1802. for 1st and 2d Sessions of 1817.

[Here enter No. 157.]

Read also letter, dated the 19th ultimo, from the Second Judge of the Court of Circuit in the Western Division, submitting the report prescribed by Section VII Regulation ~~I~~ of 1802

[Here enter No. 158.]

In commencing on the Southern Malabar Calendar for the 1st Sessions of 1817 the Second Judge of the Court of Circuit remarks that there was one case of a serious nature in which, as the offence charged was not specifically provided for by any regulation, the principals were only sentenced to suffer corporal punishment of thirty rattan stripes and imprisonment with hard labour in another Zilla for the term of Seven years, a punishment which in the opinion of the Second Judge "can hardly be "deemed adequate to their offence;" and he concludes with recommending, as some enhancement of the punishment "to which the Principals have been sentenced, that "each of them should be confined in separate Zillas "and not allowed to remain together at Mangalore "which is the station to which, he understands, they "have been removed by the orders of the Magistrate "of Malabar."

Had the original communication been respectfully

2: March 1818.

respecting the case of these four prisoners how far by any suggestions of this learned Judge as to the of directing them to be furnished to separate the Court of Zoujdaree Adalut might have come into consideration before they issued orders for the banishment of the Prisoners the sentence passed by the Second Judge that the four prisoners aforesaid should be and kept to hard labour in irons in any District to which they might be removed by of the Zoujdaree Adalut.

This sentence was referred Court by the Criminal Judge of Zillah on the 2nd of August last and the was issued, one article excepted, on the 13th leaving for the banishment of the Prisoners Zillas of Cuttack must be considered as first not liable, with any others of the subsequent alterations.

And whereas by the Second Judge regarding the of the four Zillas Magistrates against the this case, the Court of Zoujdaree Adalut propose to call his attention to the of clause Seventh Section II. Regulation wherein he will find it to be enacted

7. 10.

2d March 1818.

that in all instances where the degree of punishment specified in that clause may appear to the Judge of Circuit to be insufficient in a case not specifically provided for by the Mohammedan law or the Regulations he shall transmit the trial, with his Sentiments thereupon, to the Court of Zoujdaree Adalut.

On the Sentiments of the Second Judge of the Court of Circuit regarding the expediency of possessing some criterion by which the Courts of Circuit may be enabled to judge of the Crimes most prevalent in the several Zillas within their respective Divisions and of the progress made towards the suppression of offences, the Court of Zoujdaree Adalut entirely concur; and they accordingly direct that the several Zilla Magistrates be required to lay before the Judge of Circuit, at each Jail Delivery, a statement of crimes committed within their respective jurisdictions, prepared according to the form prescribed in Section XXX. Regulation IX. of 1816.

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Western Division, for his information, and that extract from the latter part of these proceedings be sent to the four Provincial Courts of Circuit by precept requiring them to communicate the same

27: of

27th February 18

2: March 1818.

respecting the case of these four persons

by any suggestions of the learned Judge

of directing them to be handed to

the Court of Toungdaree Udalut

case into consideration before they

orders for the banishment of the

The sentence passed by the Lower

that the four persons aforesaid should

and kept to hard labour in irons

Ordered, that they might be

of the Toungdaree Udalut

these sentences are

Court by the

on the 2nd of August last and

was issued, on certain grounds, on the

Laws for the banishment of the

Zillas of Cuttack must be considered

not liable, in

any subsequent alteration.

Order referring to the

by the Second Judge regarding

of the four persons sentenced

this case, the Court of Toungdaree Udalut

proper to call his attention to the

of clause Seventh Section II. Regulation

wherein he will find it to be

7th

March 1818.

that in all instances where the degree of punishment specified in that clause may appear to the Judge of Circuit to be insufficient in a case not specifically provided for by the Mohammedan law or the Regulations he shall transmit the trial, with his sentiments thereupon, to the Court of Toungdaree Udalut.

In the sentiments of the Second Judge of the Court of Circuit regarding the expediency of possessing some criterion by which the Courts of Circuit may be enabled to judge of the crimes most prevalent in the several Zillas within their respective Divisions and of the progress made towards the suppression of offences, the Court of Toungdaree Udalut entirely concur; and they accordingly direct that the several Zilla Magistrates be required to lay before the Judge of Circuit, at each Jail Delivery, a statement of crimes committed within their respective jurisdictions, prepared according to the form prescribed in Section XXX. Regulation IX. of 1816.

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit on the Western Division, for his information, and that extract from the latter part of these proceedings be sent to the four Provincial Courts of Circuit by precept requiring them to communicate the

same

sons to the several Zilla Magistrates without their respective Divisions for their information and future guidance.

Read following letter A and Circular proceedings B from Her Court of Sowjdaree Adaulut dated 2d Inst. recorded such observations and orders on the foregoing Report as appear to them to be requisite, as well for the future guidance of the Second Judge with a view to the general administration of Criminal justice, direct that this Report be submitted for the information of the Right Honourable the Governor in Council, with whom it will remain to determine as to the expediency of adopting the suggestions made by the Second Judge, or the circulation of the said proceedings, regarding the employment of the convicts at Seringapatam or the Government Land of this island.

Ordered that the foregoing Letter and enclosures and also the Minutes of these proceedings be sent to the Secretary to Government on the Judicial Department, for the purpose of being laid before the Right Honourable the Governor in Council.

Read letter, dated the 19th ult. from the 1st Judge in Council on the Western

representing his intention to leave Mangalore for South Malabar on 20th ultimo.

Vide order No. 16 of 5 M

RA

H

GB

77

J. W

At a Court of the Fouzdaree Udalut

Present

Thursday 5th March 1818

Andrew Scott Esqre
Edward Croft Greenway Esqre
George Stratton Esqre
} Judges.

At

Read Petition presented by Ghoolam Russool, Government Vakeel, on behalf of the Collector of Guntoor.—

G W

/Here enter Petition No 1 of 1818/

The prayer of the petition is that an order may be issued by the Court of Fouzdaree Udalut to the Judge on Circuit commanding him to call upon the Criminal Judge in the Zilla of Guntoor for his proceedings in the Case of one Coppoo Venkatasem and to pass orders thereupon for the guidance of the Criminal Judge.—

By Section XXIV Regulation X of 1816 two or more Judges of a Court of Circuit, forming a Court at the Sudr Station, are declared competent on all occasions when it may appear necessary upon petitions presented to them relative to the proceedings of a Criminal Judge to call upon the Judge for his

his proceedings and to pass such orders thereupon as they seem proper and consistent with the Regulations any objections therefore which the Collector of Guntoor may have to offer to the proceedings of the Criminal Judge in the case abovementioned should be submitted to the Judges of the Court of Circuit collectively for their consideration and orders.—

The Court direct therefore that the prayer of the petition be rejected and that Extract of these proceedings be furnished to the Petitioner on his application.—

Read letter, dated the 28th Ultimo from the Magistrate in the Zilla of Salem— Recommending an offer of Rewards for the apprehension of persons concerned in a late Murder.—

/Here enter No. 164/

The Magistrate of the Zilla of Salem recommends, in consideration of the circumstances of peculiar atrocity with which the murder was attended that five hundred Rupees be offered for the apprehension of each Sirdar or leader of the Gang and fifty Rupees for each of the inferior offenders concerned in the perpetration of the act.—

The Court of Foujdaree Udalut, having considered the grounds on which a recommendation is made for an offer of Rewards to the extent here specified, authorize and direct the Magistrate of Salem to offer five hundred arcot Rupees for the apprehension of each Sirdar and fifty Rupees for the apprehension of each of the inferior offenders, payable on the conviction of such offenders before the Court of Circuit.—

Ordered that extract of these proceedings be sent to the Magistrate of Salem for his information and guidance

/Sent following letter No/

Ordered also that extract of these proceedings be sent to the Civil Auditor

/Sent following letter B/

Read letter, dated 19th Ultimo, from the Criminal Judge in the Zilla of Cuddapah, with half yearly Reports prescribed by Section XXXVI Regulation X of 1816.

/Here enter No. 161/

Read letter, dated 26th Ultimo, from the 2d Judge on Circuit in the Northern Division, Reporting

5th March 1818.

Reporting his intention of leaving Guntoor for Rajahmundry on 27th February —

/Here enter No. 163/

R. B.

No. 1

Monday 9th March 1818.

J. U

At a Court of the Foujdaree Udalut

Present

No. 1

Andrew Scott Esqre
Edward Croft Greenway Esqre
George Stratton Esqre
} Judges

Read, letter dated 14th Ultimo from the Second Judge on Circuit in the Centre Division, submitting Case No. 20 Cuddapah Calendar 1st Sessions A.D. 1818. —

/Here enter No. 1145/

The Court, having maturely considered the Proceedings held before the Judge on Circuit, the Futwa of the Provincial Law Officer, and the Futwa of the Cazee-ool-Cozat, and Mooftees of the Foujdaree Udalut, confirm the said Futwa of the Cazee-ool-Cozat and Mooftees aforesaid and, in commutation of the penalty of Deeyut, adjudge the Prisoner

Mala Nareegaudoo

to be imprisoned and kept to hard labour in irons, on the public Roads or other public works, for and during the period of twelve Calendar Months, and then released.

/Sent following letter A/

Read

Read letter, dated the 14th Ultimo,—
from the 2d Judge on Circuit in the Western Division—
Submitting trial No 1 South Malabar Supplemental
Calendar 2d Sessions A.D. 1817.

/Here enter No 156/

The Court, having maturely considered
the Proceedings held before the Judge on Circuit,
the Futwa of the Provincial Law Officer, and the
Futwa of the Cazee-ool-Coozat and Mooftee of
the Foujdaree Udalut, confirm the said Futwa
of the Cazee-ool Coozat and Mooftee aforesaid
and acquitting the Prisoners

Paddinara Koonata Krishna Menon

Paddinara Koonata Ramen Menon

Tallicherry Ramen Nair,

Apadata Karonagara Menon &

Watakandatil Manoo

direct that they be released accordingly—

/Sent following letter B/

Read letter, dated the 28th Ultimo,
from the Judge in the Zilla of South Malabar
reporting the occurrence of a Robbery perpetrated
by a Gang of 36 persons, and recommending
the offer of a Conditional pardon to one of the
persons

persons concerned who has been apprehended.—

/Here enter No 171/

In consideration of the circumstances
reported by the Criminal Judge, the Court of
Foujdaree Udalut, resolve to submit his application
to Government without delay and to recommend
that the Right Honorable the Governor in
Council may be pleased to authorize an offer
of pardon to Nittalee Mooleen on the
terms specified in Section XX Regulation VIII
of 1802.—

Ordered that the foregoing
letter and extract of these proceedings, be sent
in the Judicial Department,
to the Secretary to the Government, for the
purpose of being laid before the Right
Honorable the Governor in Council.—

/Sent following letter C/

R.A.

J. A.

At a Court of the Foujdaree Adalut.

Present,

Wednesday 11th March 1818.

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges.
George Stratton Esqre.

Read letter, dated the 6th instant,

from the Magistrate in the Zilla of Salem,

requesting to be empowered to offer a condition-
-al pardon to any two of the inferior accom-
-plices in the murder of Shaik Imaum.—

[Here entered No. 175.]

The Magistrate requests that he may be empowered to issue a proclamation that a pardon will be given to any two of the accomplices, not being principals in the murder of Shaik Emaum, who will come forward and disclose all the facts relative to this atrocious act".

The general discretion which the Magistrate is desirous to obtain for proclaiming a pardon "to any two of the accomplices

J. A.

At a Court of the Foujdaree Adalut.

Present,

Wednesday 11th March 1818.

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges.
George Stratton Esqre.

Read letter, dated the 6th instant,

from the Magistrate in the Zilla of Salem,

requesting to be empowered to offer a condition-

-al pardon to any two of the inferior accom-

-plices in the murder of Shaik Imaum.-

(Here entered No. 175.)

The Magistrate requests that he

may be empowered to issue a proclamation that

a pardon will be given to any two of the

accomplices, not being principals in the

murder of Shaik Emaum, who will come

forward and disclose all the facts relative

to this atrocious act".

The general discretion which the

Magistrate is desirous to obtain for

proclaiming a pardon "to any two of the

accomplices

"accomplices not being principals in the murder" is a discretion which it is not competent to the Court to grant or to the Magistrate to exercise under the subsisting Regulations.- The Magistrate states that four of the persons supposed to be "principally concerned" have been taken into custody, but their is nothing in the foregoing letter to shew either that any of "the supposed accessaries", who alone are contemplated in Section XX Regulation VIII of 1802, have been apprehended or that there are grounds for believing that an offer of pardon to any such supposed accessaries would lead to the apprehension or conviction of the principal offenders or offenders.- It is only on receiving a report either from the Criminal Judge or Magistrate particularizing by name any supposed accessaries to whom, for reasons to be by him specified, it may appear expedient to make a conditional offer of pardon, that the

11th March 1818.

the Court of Foujdaree Adalut can submit any such recommendation for the consideration and orders of Government.-

Ordered that extract of these proceedings be sent to the Magistrate in the Zilla of Salem for his information and guidance.-

Sent following letter.-

/Here enter No 5/

Read letter dated the 3d instant, from the Criminal Judge in the Zilla of Salem, requesting the orders of the Court as to the disposal of certain Thandeegar Informers.-

/Here enter No 172/

It appearing, on reference to the Records of the Court, that the informers Mohummad and Ranjay Khan, have fulfilled the conditions on which they received an offer of pardon from Government;

It is ordered that Certificates, in confirmation of such conditional pardon, be prepared and forwarded to the Criminal Judge

an

"accomplices not being principals in the murder
is a discretion which it is not competent to the
Court to grant or to the Magistrate to exercise
under the subsisting Regulations.- The
Magistrate stated that four of the persons
supposed to be "principally concerned" have
been taken into custody, but their is
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that any of "the supposed accessaries," who
alone are contemplated in Section XX Regn.
VIII of 1802, have been apprehended or that
there are grounds for believing that an
offer of pardon to any such supposed ac-
accessaries would lead to the apprehension
or conviction of the principal offender
or offenders.- It is only on receiving a report
either from the Criminal Judge or Magistrate
particularizing by name any supposed
accessaries to whom, for reasons to be
by him specified, it may appear expedient
to make a conditional offer of pardon, that

the

the Court of Foujdaree Adalut can submit
any such recommendation for the consideration
and orders of Government.-

Ordered that extract of these
proceedings be sent to the Magistrate
in the Zilla of Salem for his information
and guidance.-

Sent following letter-

/Here enter No 5/

Read letter dated the 27th instant,
from the Criminal Judge in the Zilla of
Salem,- Requesting the orders of the Court as to
the disposal of certain Chanseegar Informers.-

/Here enter No 172/

It appearing, on reference to the
Records of the Court, that the informers Mohum-
=mud and Raulay Khan, have fulfilled the
conditions on which they received an offer of
pardon from Government;

It is ordered that Certificates in
confirmation of such conditional pardon, be
prepared and forwarded to the Criminal Judge

in

"accomplices not being principals in the manner is a discretion which it is not competent to the Court to grant or to the Magistrate to exercise under the subsisting Regulations.- The Magistrate states that four of the persons supposed to be "principally concerned" have been taken into custody, but that their is nothing in the foregoing letter to shew that any of "the supposed accessaries," who alone are contemplated in Section XX Regn VIII of 1802, have been apprehended or that there are grounds for believing that an offer of pardon to any such supposed accessaries would lead to the apprehension or conviction of the principal offender or offenders.- It is only on receiving a report either from the Criminal Judge or Magistrate particularizing by name any supposed accessaries to whom, for reasons to be by him specified, it may appear expedient to make a conditional offer of pardon, that the

11th March 1818.

the Court of Sovdarce Adalut can submit any such recommendation for the consideration and orders of Government.-

Ordered that extract of these proceedings be sent to the Magistrate in the Zilla of Salem for his information and guidance.-

Sent following letter.-

Here enter A/5.

Read letter dated the 3d instant, from the Criminal Judge in the Zilla of Salem,- requesting the orders of the Court as to the disposal of certain Khandeejar Informers.-

Here enter No. 172/

It appearing, on reference to the Records of the Court, that the informers Mohummud and Kaulay Khan, have fulfilled the conditions on which they received an offer of pardon from Government;

It is ordered that Certificates in confirmation of such conditional pardon, be prepared and forwarded to the Criminal Judge

in

in the Zillaq of Salem, to be by him delivered to the parties aforesaid for their respective security as far as regards the acts therein referred to.-

The Court of Foujdaree Adalut also direct that the Criminal Judge in the Zillaq of Salem be commanded to call before him the two informers abovementioned, as well as the youths Koosynee and Burroj, referred to in the foregoing letter, and to caution them against the repetition of practices which must render them obnoxious to the severest penalties of the law, and the Court further direct that the Criminal Judge of Salem be enjoined to give due notice to the Magistrate of the Zillaq of the release of the several persons here mentioned in order that the requisite precautions may be taken with a view to the assurance of the public safety.

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zillaq of Salem for his information and

and guidance.-

11th March 1818.

Sent following letter

/Here enter 815/

Read letter dated the 27th ultimo, from the D. Judge on Circuit in the Northern Division,- with copies of Guntoor Calendar and Supplemental Calendar 1st Sessions A.D. 1818.-

/Here enter No. 170/

On looking over the foregoing Calendar the Court observe one or two cases wherein the second Judge on Circuit reports that, on consideration of the circumstances in evidence before him "and of the remarks of the Criminal Judge" he ordered the Prisoners to give security for their future good behaviour and appearance when required.-

The cases in which a Judge of the Court of Circuit is empowered to direct that a prisoner be detained in custody until he shall give sufficient security for his future good behaviour and appearance when required are cases wherein there shall appear to be "strong suspicion though

"though not amounting to conviction" or where there may be "proof of notorious bad character but the Court deem it proper to observe that the circumstances of strong suspicion as well as the proof of bad character, on considerations of which a Judge of Circuit may consider it expedient to exercise the authority so vested in him by the Regulations, are not to be collected in any degree from the remarks recorded on the Calendar, but must arise, in every case, solely and exclusively from the circumstances which may be in evidence before him on the trial of the Prisoner.-

In case No. 32 of the Calendar certain of the Prisoners are sentenced, under Act XIV of 1817 to nine "years imprisonment and hard labour" whilst others are sentenced to seven years imprisonment and hard labour under a judgment of Act XIV of 1817. But as the abstract given in the Calendar and

does not exhibit a statement of the grounds on which the prisoners in question were declared liable, in the Futwas, to the different degrees of punishment above mentioned- (a statement which is essential to any determination regarding the propriety of the sentences passed by the Second Judge) the Court desire that a copy of the Futwas, delivered in case No. 32 of the Cuttack Calendar 1st Sessions of 1818, be sent up for their consideration.-

Ordered that extract of these proceedings be sent to the Second Judge on Circuit in the Northern Division and that he be by Precept commanded to send up copy of the Futwa aforesaid within ten days from the date of the receipt of the Precept.-

Sent following Precept

Here enter C.P.

Read letter dated the 5th instant, from the Judge in the Zilla of Chinglepute,-

11 11th March 1818.

Chingleput,- with notices for prosecutor and witness in a case coming on for trial before the Court of Circuit.

/Here enter No. 168./

Read return, dated the 3d instant, from the 2d Judge late on Circuit in the Southern Division,- to precept dated 25th November 1817, ordering communication to the Criminal Judge in the Zillah of Tinnevelly of the Court's observations in case No. 1 of Tinnevelly Calendar 2d Sessions 1817.

/Here enter No. 173./

Read letter, dated the 28th ult. from the acting 3d Judge on Circuit in the Southern Division, reporting his arrival at Coimbatore.-

/Here enter No. 167./

Read return, dated the 9th from the Criminal Judge in the Zillah of Nellore,- to precept dated 16th ultimo on him to state what steps had been taken to procure the attendance of the prosecutor and

3/ 766.

11th March 1818

witnesses in a Criminal case depending before him.-

/Here entered No. 165/

Read return, dated the 3d instant, from the 2d Judge late on Circuit in the Southern Division,- to precept dated 25th ultimo calling upon him to explain the cause of his not having obeyed the exigence of the Court's precept of 24th November 1817.-

/Here enter No. 176./

Read letter, dated the 27th ultimo from the Magistrate in the Zillah of Bellary,- with abstract statement of Robberies and other crimes called for by Court's precept of 7th January 1818.-

/Here enter No. 166/

Read letter, dated the 5th instant, from the Judge in the Zillah of Salem,- with reports prescribed by Section XXXVI Regulation X of 1816.-

/Here enter No. 169/.

RA

J. C.

At a Court of the Trayparee Adalut.

Present

Thursday 12th March 1818. Andrew Scott Esqre. Edward Croft Greenway Esqre. George Stratton Esqre. } Judges

Read letter, dated the 4th instant, from the Chief Secretary to Government, Enclosing copy of letter from the British Commissioners at Pondicherry and desiring that the Court will submit the proceedings on the case of certain persons under confinement for a riot in Tanjore, to Government with their opinion on the propriety of remitting the remainder of their punishment.—

/Here enter No. 179./

The offence for which the persons here referred to are represented to be in confinement being an offence punishable by the Criminal Judge, the proceedings held in this Cause have not been submitted to the Court of Trayparee Adalut, and of the several cases of not enumerated in the Quarterly Report of Prisoners for the Zilla of Combaconum the Court are unable, upon the indefinite information given in the foregoing communication from Government, to

to determine which ~~of them~~ one relates to the prisoners in Question — as the prisoners, however, would appear to have been sentenced to be punished for a specific offence and as no circumstances are brought to the Notice of the Foujdaree Adalut tending to extenuate that offence the Court are of opinion that any remission of the Sentence so adjudged against them would be very objectionable.

Should an early Settlement of the disputed boundary of the French possessions at Karical be considered to be of paramount importance, the Court are not aware that there would be any objection to the attendance, under a proper Guard, of any of the prisoners whose personal attendance may be required at the adjustment, by the competent authorities, of the matter in dispute.—

Ordered that extract of these proceedings be sent to the Chief Secretary to Government for the purpose of being laid before the Right Honorable the Governor in Council.—

RA

Sent following letter A/1

J. M.

At a Court of the Foujdaree Adalut

Present,

Friday 13th March 1818. Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges.
George Stratton Esqre.

Read again letter, dated the 5th instant, from the Criminal Judge in the Zilla of Chingleput, — with notices for prosecutor and witnesses in a case coming on for trial before the Court of Circuit.—

(Here enter No. 158.)

The Nazir reports to the Court that he has not been able to identify the several individuals named in the notices which accompanied the foregoing letter inasmuch as each separate notice contains only the name of the person required to attend and the street where he resides.—

The Court direct therefore that the notices be returned to the Criminal Judge without delay and that he be commanded to prepare new notices specifying in each the

the name of the person required to attend and the name of his father together with the religion, cast, profession and age, all of which particulars will have been prefixed the Court presume, to each several deposition taken before the Criminal Judge, and the number of the house in the street where he may reside or any other particular which may enable the Nazir to find out his place of abode.-

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Chinglepute for his information and guidance.-

Sent following letter

/Here enter A/

Read letter dated the 9th instant, from the Commissioner of the internal Administration requesting to be furnished with sundry statements.-

/Here enter No. 178./

Ordered accordingly.-

Read letter, dated the 7th instant, from the Magistrate in the Zilla of Cuddapa.- stating that he has ordered the reward for the apprehension of Nursingpundee, which was offered under the provisions of Regulation XIII. of 1809, to be paid and requesting that, if the Court consider him to have exceeded his powers, they will obtain the sanction of Government for his proceeding.-

/Here enter No. 179/

The Court resolve to submit the foregoing letter to Government and to request that the Right Honourable the Governor in Council be pleased to sanction the disbursement of one thousand Rupees reported by the Magistrate to have been made in payment of the reward formally authorized, under the operation of Regulation XIII. of 1809, for the apprehension of Nursingpundee.-

Ordered that the foregoing letter with extract from the latter part of the Courts' proceedings of 27th ultimo and extract of these proceedings be sent to the Secretary to the Government in the Judicial Department, for the purpose of being submitted for the information and orders of the Right Honourable the Governor in Council.-

/Sent following letter B./

13th March 1818.

A Letter, dated the 7th instant, from the Criminal Judge in the Gillee of Nellore, with copy of a letter addressed by him to the Commissioner of internal administration respecting the incorrect translation into Tamul of clause third Section XXVII Regulation XI of 1816.

Recorded A. 1771.

The Judge states that according to the Tamul version of the latter part of clause third Section XXVII Regulation XI of 1816 the testimony of interpreters to the confessions of Prisoners before the Police Officers would only appear to be requisite where such Prisoners are unable to write; that the Police officers have adhered to the above interpretation and that much trouble and delay have ensued.-

As it appears, on reference to the Records, that a printed copy of the Telugu translation of the Regulation above mentioned has not yet been received, the Court direct that the foregoing letter be submitted to Government with their recommendation that it may be referred to the Telugu translator, in order that the passage in question may undergo revision and that the translation, if found to be incorrect, may be corrected before the Regulation shall be sent to the Press.-

2d Ditto

13th March 1818

Ordered that the foregoing letter with extract of these proceedings be sent to the Secretary to the Government on the Judicial Department, for the purpose of being submitted for the information of the Right Honourable the Governor in Council.-

Sent following letter

J. 16.

At a Court of the Zemindaree Adalut

Monday

16th March 1818.

Present

Andrew Scott, Esqr.
Edward Croft Greenway, Esqr. } Judges
George Strettell, Esqr.

No 667

Read letter dated the 7th instant from the Magistrate on the Zillah of Vizagapatam forwarding under clause Sixth Section XVIII Regulation IX of 1816, copy of his proceedings on a cause of resistance of Process.

Ordered that the papers which accompany the preceding letter consist only of copies written on the Telooguo language of the original proceedings of the Magistrate. It being necessary, however, as prescribed by Section XXXVI Regulation VII of 1812 that all papers written in any one of the native languages which may be forwarded to that court should be accompanied by English translations, the Joint Clerk of the Magistrate be called upon to prepare and send up without delay English translations of the several Telooguo papers connected with the

Clerk

16th March 1818.

his proceedings in the above case of resistance of Criminal process.

Ordered that a Copy of these proceedings be sent to the Magistrate in the Zilla of Wynaad for his information and guidance.

/Sent following letter No 15

RA.

EBS

EW

F. A.

At a Court of the Foujdaree Adalut

Present,

Tuesday 17th March 1818 — Andrew Scott Esqre — Edward Croft Greenway Esqre — George Stratton Esqre — } Judges

Read letter dated the 10th instant, from the Secretary to Government in the Judicial Department, authorizing the Criminal Judge of South Malabar to offer a conditional pardon to the person referred to in the Court's proceedings of the 6th Instant.-

/Here enter No. 138./

Ordered that copy of the foregoing letter be sent, with extract from the Court's proceedings of the 6th instant, for the information and guidance of the Criminal Judge in the Zilla of South Malabar.-

/Sent following letter No

RA.

16th March 1818.

his proceedings in the above case of resistance of Criminal process.

Ordered that extract of these proceedings be sent to the Magistrate in the Zilla of Wynaad for his information and guidance.

/Sent following letter No 15

608

J. A.

At a Court of the Foujdaree Adalut

Present,

Tuesday 17th March 1818 — Andrew Scott Esqre — Edward Croft Greenway Esqre — George Stratton Esqre — } Judges

No 1

Read letter dated the 11th instant, from the Secretary to Government in the Judicial Department, authorizing the Criminal Judge of South Malabar to offer a conditional pardon to the person referred to in the Court's proceedings of the 6th Instant.-

/Here enter No 138./

Ordered that copy of the foregoing letter be sent, with extract from the Court's proceedings of the 6th instant, for the information and guidance of the Criminal Judge in the Zilla of South Malabar.-

/Sent following letter No 1/

16: Ma

Court

Co

E.C.S

G.W

F. U.

At a Court of the Foujdaree Adalut -

Present,

Wednesday
18th March 1818. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges -
M. George Stratton Esqre
E.C.S

Read return dated the 6th instant,

G.W from the 3d Judge of the Court of Circuit in the Western Division, - to precept dated 15th ultimo ordering communication to the Magistrate of Malabar of the Court's observations on the points referred for their decision by the 2d Judge under date 28th January. -

/Here enter No. 185/

Read also letter, dated the 7th instant from the 2d Judge of the Court of Circuit in the Western Division, with copy of a communication from the Magistrate of Malabar in continuation of his observations upon the Court's proceedings under date 11th ultimo and of his reply. -

/Here enter No. 184./

16th c

18th March 1818.

On the remarks made by the Magistrate of Malabar in his return of the 2nd Instant with respect to the Court's precepts of the 11th Ultimo, the Court of Foujdaree Adaulut do not consider it necessary to record any observation, since the attention of the Magistrate was particularly directed in those orders to certain provisions of the Regulations which define, in terms sufficiently plain and intelligible, the line of conduct to be pursued by the Native Officers of Police.—

And on the rules laid down by the Third Judge of the Court of Circuit for the guidance of the Magistrate in the several matters submitted by the latter Officer, the Court deem it requisite only to observe that they are founded on just views of the nature and object of the several enactments to which they relate.—

In the Statement submitted by the Magistrate of Malabar to the Third

Judge

Judge of the Court of Circuit, in return to that Officer's precept of the 22nd January last, the Magistrate represents that he is unable, in the absence of the Head Assistant as Magistrate, satisfactorily to explain the cause of the extraordinary delay of sixteen months which had taken place in investigating a complaint for burglary and theft.— It appears, however, from the information obtained from the records of the office of the Head Assistant Magistrate that the delay was partly occasioned by a reference "for previous investigation" to the Cavai Jaloki Seristadar, although it now here appears that the Assistant Magistrate saw any cause to distrust the truth of the complaint.— This case, it is the duty of the Court to remark, affords a strong practical illustration of the expediency of their instructions of the 11th Ultimo, and the Court trust that a due observance of the provisions required to in those instructions will prevent the recurrence of similar injurious

injurious delays and ensure an early investi-
=gation into all complaints which may
be preferred before the constituted Criminal
authorities.-

Referring to the representation
contained in the Assistant Magistrate's
return of the 22d Instant the Court of Foujdaree
Adalut deem it to be incumbent upon them
to repeat their particular desire that the
Third Judge of the Court of Circuit will
submit without delay such specific re-
arrangements as his observations during the
last Quarterly Sessions shall have shown
to be necessary in order to facilitate, within
the district of Malabar, the exercise of the
important duties with which the Magistrate
is entrusted.-

It appears, in the last place,
to the instructions contained in the latter
part of the precept issued on the 27th ultimo,
by the Third Judge of the Court of Circuit

to

18th March 1818.

to the Assistant Magistrate of Malabar, it is
obviously inferrible from the very proviso so
introduced into the First Clause of Section XXVII
Regulation XI of 1816, that it is not only
competent to, but imperative upon a District
Police Officer to dismiss such complaints as
"shall not appear to be worthey of credit."
reporting the same to the Magistrate under
clause First Section XXV Regulation XI of
1816.- In all cases, however, where a District
Police Officer may entertain doubts as to
the course he should pursue, it will be
most expedient that he should submit to
the Magistrate the complaint and the
result of his inquiries, as suggested by the
Third Judge and await such instructions
as the Magistrate may deem it proper to
issue for his future guidance.-

Ordered that extract of these
proceedings be sent to the Third Judge
of the Court of Circuit in the Western
Division, for his information and that

he

18. March 1818.

he be by Precept commanded to make the necessary communication to the Magistrate in the Zilla of Malabar for his information and future guidance.-

Sent following Precept
Rd. / Here enter A/S

M
EHS

Fde

Ala Court of the Foujdaree Udalut

Present

Thursday 19th March 1818

Andrew Scott Esqr.
Edward Croft Greenway Esqr } Judges.
George Stratton Esqr.

M
EHS

Read letter dated the 15th instant from the Criminal Judge in the Zilla of Chingleput Forwarding Notices to be served on prosecutor and 3. Witnesses resident in Madras. in a case coming on for trial before the Court of Circuit

/ Herewith N. 189. /

The Deputy Register lays before the Court the returns of the Nazir, shewing that the Notices on Vencatachella Naick, Veerasamy, and Jodendapa Naick were duly served and that Ramasamy is reported to have quitted Madras for the Zilla of Cuddapah.

Ordered that the Notices in question with extract of these proceedings be sent to the Criminal Judge in the Zilla of Chingleput

Sent following Letter
Rd. / Herewith A/S

M

EHS

18th March 1818.

16

he be by Precept commanded to make the necessary communication to the Magistrate in the Zilla of Malabar for his information and future guidance.-

Sent following Precept
/Seventeen A/S

R.A.

M

E.C.S

C.C.

To

The Court of the Foujdaree Udalut
Present

Thursday 19th March 1818. Andrew Scott Esqr. Edward Croft Greenway Esqr. George Stratton Esqr. } Judges.

M

E.C.S

Read letter dated the 15th instant from the Criminal Judge in the Zilla of Chingleput Forwarding Notices to be served on prosecutor and 3. Witnesses resident in Madras. in a case coming on for trial before the Court of Circuit

/Seventeen N. 189./

The Deputy Register lays before the Court the returns of the Nazir, shewing that the Notices on Vencatachella Naick, Veerasamy, and Govindapa Naick have been served and that Ramasamy is reported to have quitted Madras for the Zilla of Cuddapah.

Ordered that the Notices in question with extract of these proceedings be sent to the Criminal Judge in the Zilla of Chingleput—

Sent following Letter
/Seventeen A/S

R.A.

M

E.C.S

At a Court of the Fouydaree Adalat

Monday
23rd March 1818.

Present

Andrew Scott Esqr. .....
Edward Croft Greenaway Esqr. } Judges
George Stratton Esqr. .....

Read a petn letter, dated the 31st
February, from the Acting Third Judge on Circuit in
the Southern Division, with copies of the calendars
of Cumbacconum and Verdachellum, 1st Sessions of 1818
(Vide note A 108)

Ord records of the Proceedings held by
the Acting Third Judge in cases Nos 3 and 18 according
to the remarks entered in the foregoing Calendar are
to be referred to the Fouydaree Adalat not having
been received,

Ord Court direct that the Acting
Third Judge on Circuit in the Southern Division
be by precept commanded to send up the Records
of the Proceedings held by him in the two cases
aforesaid within fifteen days from the date of
the receipt of the Precept.

Sent following Precept No 15.

J. A.

At a Court of the Zoyjdaree Adalut—
Present,

Wednesday 25th March 1818.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
~~George Stratton Esqre~~

No

Read letter, dated the 28th ultimo.
from the 2d Judge of the Court of Circuit
in the Northern Division,—Referring trial
No 13. Masulipatam Calendar 1st Sessions
A.D. 1818.—

/Here enter No 176 of 1818/

The Court having maturely
considered the proceedings held before the
Judge of Circuit the futwas of the Provincial
Law Officer and the futwas of the Cazee=
=ool Coozat and Mooftees of the Zoyjdaree
Adalut confirm the said futwas of the Cazee
=ool Coozat and Mooftees aforesaid and, under
the latitude given by the sentence of Bahorlan
a Judge

adjudge the Prisoner

"

Narhadamilly Chelly"

to be imprisoned and transported to Prince of Wales's Island, there to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of her natural life.-

Sent following letter.

/Here enter A/

The Third Judge of the Court of Circuit records that, after he had taken the evidence of the persons bound over to depose on the part of the prosecution, he considered it necessary to order the attendance of one Bándala Viddiúm to give evidence in support of the prosecution and that he issued the necessary orders to the Criminal Judge on the 5th of February last; but that as the Prosecutor and witnesses on the part of the prosecution had been examined and were

desirous

desirous to return to their homes he resolved to proceed with hearing the prisoner's defence.- The defence was accordingly closed on that day, and on the 19th of the same month Bamaly appeared and was examined as a witness for the Prosecution, after which the Provincial Law Officer delivered his futwa on the case.-

The Court of Sujdaree Adalut notice this part of the proceeding held before the Court of Circuit in order to point out its irregularity to the Judge who presided at the trial. It is the duty of the Judge on Circuit to take the whole of the evidence for the prosecution before he calls upon the prisoner to make his defence, and when the prisoner's defence, together with the evidence which may be adduced in support thereof, shall have been heard before him, it remains for him to call upon the Law Officer to deliver his

futwa

futwa in the case.- But to proceed to hear any further evidence in support of the prosecution after the defence shall have been brought to a close is a practice which cannot be reconciled, under any circumstances whatever, with that degree of tender circumspection which should ever be exercised towards the accused.-

Ordered that extract of these proceedings be sent to the Third Judge of the Court of Circuit in the Northern Division for his information and future guidance.-

Sent following letter

/Here enter B/

Read letter, dated the 16th. ultimo. from the Second Judge of the Court of Circuit in the Northern Division,- submitting trial No. 4 of the First Calendar for the 1st. Sessions of 1818 in the Zillah of Guntoor.

/Here enter No. 162./1818./

The Court having maturely considered

considered the proceedings held before the Judge on 1st Circuit, the futwas of the Provincial Law Officer and the futwas of the Cazee ool Cozat and Mooftees of the Zoujdaree Adalut confirm the said futwas of the Cazee ool Cozat and Mooftees aforesaid and acquitting the Prisoner.

"Moodegonda Veerabadrappa"

direct that he be released accordingly.-

Sent following letter

/Here enter C/

It appears, from the record of the proceedings held in this case, that at the investigation before the Police the witnesses for the prosecution were first examined in chief by the Police Officer and then cross-examined by the Prisoner.-

The Court direct, therefore, that the attention of the Police Officer and Darogah of Collectorate be called to Clause second Section

Section XXVII Regulation XI of 1816, under the provisions of which Clause he will find that it is his duty simply to take down in writing the depositions of the witnesses, and that it is not competent to the accused to interrogate such witnesses.-

The Court also direct that the attention of this Police Officer be called by the Magistrate to Clause Fourth of the said Section of the Regulation aforesaid which prescribes that all Prisoners apprehended under the above Section are to be sent to the Criminal Judge of the Zillay.-

In the futwa passed by the Provincial Law Officer in this case it is declared that the Prisoner is liable, "on "suspicion of having set fire to his house" to the punishment of Kohoobut, and the Second Judge of the Court of Circuit, adverting only to the sentence declared in the futwa

futwa and not to the grounds on which it is passed, observes in the letter which accompanies the trial, that as the Futwa of the Law Officer leaves the extent of punishment discretionary and as the penalty of transportation is denounced against the crime of Arson under Clause Second Section IV Regulation XV of 1803. he submits the trial for the final sentence of the Foujdaree Adalut.-

In qualification of the last remark here made by the Second Judge the Court deem it necessary to observe that, in order to come within the operation of Clause Second Section IV Regulation XV of 1803. it is essential that the arson be committed "in the prosecution of a "robbery or intent to rob;" and in regard to the sentence of Kohoobut declared in the futwa of the Provincial Law Officer the Second Judge will find, on reference to Clause Sixth Section II Regulation

Regulation XV of 1803, that the Courts are not authorized to inflict any punishment whatever "upon suspicion only," whatever may be the futwas of the Law Officer, but that in cases of strong suspicion, though not amounting to conviction, they may order the accused to give security for future good behaviour and appearance when required.-

Certain discrepancies are observable, on the face of the Futwas, between the English and Persian translation of the Record.- The Court do not consider it necessary to particularize the passages in question, but they bring the circumstance to the notice of the Second Judge in order that he may exercise particular care in preparing the records of trials for transmission to the Sudder Adalut

Ordered that extract of these proceedings be sent to the Second Judge

3/ F. C.

15th March 1818.

on Circuit in the Northern Division for his information and future guidance and that he be by Precept commanded to make the requisite communication to the Magistrate in the Zillah of Guntoor for the purposes herein specified.-

Sent following Precept

/Here enter D/

Read letter, dated the 13th instant, from the Criminal Judge in the Zillah of Guntoor,- forwarding the letter which ought formerly to have accompanied the Calendar of Prisoners sent to Masulipatam

/Here enter No. 196./

Read letter, dated the 13th instant, from the Criminal Judge in the Zillah of Canara,- with reports prescribed by Section XXXV Regulation X of 1816.-

/Here enter No. 197./

Read letter, dated the 7th instant, from the acting 3d Judge of the Court of Circuit

each Gaol delivery a Statement of the
crimes committed within their several
jurisdictions.-

/Here enter No. 192./

Read return, dated the 16th instant
from the Provincial Court of Circuit in the
Western Division - to precept dated 2d
Instant, ordering communication to the
Gillas Magistrates within their jurisdiction
of the Court's directions that they do
lay before the Court of Circuit at each
Gaol delivery a statement of the crimes
committed within their respective
jurisdiction -

/Here enter No. 1951/

J. W.

At a Court of the Fouydaree Adalait

Friday
27th March 1818.

Present

Andrew Scott Esqre
Edwaard croft Greenaway Esqre } Judges
George Stratton Esqre

Read letter, dated the 24th Instant.
from the Chief Secretary to Government - desiring that
the Court will obtain and submit to Government a
certified copy of the Proceedings on the case to which
his letter of the 4th instant relates.

/Here enter No. 205/

Ordered accordingly that copy
of the foregoing letter be sent with copy of the
Chief Secretary's letter of the 4th and extract from
the Courts proceedings of the 12th instant to the
Criminal Judge on the gilla of Combaconum and
that he be by precept commanded to send up a
certified copy of the proceedings held before him
in the case in question with as little delay as possible.

/Sent following Precept No. 15

Read letter, dated the 17th instant
from the Magistrate on the gilla of Masulipatam -
submitting

each Gaol delivery a Statement of crimes committed within their several jurisdictions.—

/Here enter No. 192./

Read return, dated the 16th. instant, from the Provincial Court of Circuit in the Western Division,— to precept dated 2d. Instant, ordering communication to the Gillas Magistrates within their jurisdiction of the Court's directions that they do lay before the Court of Circuit at each Gaol delivery a Statement of the Crimes committed within their respective jurisdiction.—

/Here enter No. 193/

At a Court of the Tongadaree Adalat

Friday 27th. March 1818.

Present

Andrew Scott, Esqre. ..... Judges
Edward Croft Greenaway, Esqre.
George Stratton, Esqre. .....

Read letter, dated the 24th Instant. from the Chief Secretary to Government,— desiring that the Court will obtain and submit to Government a certified copy of the Proceedings in the case to which his letter of the 4th. instant related.

/Here enter No. 205/

Ordered accordingly that copy of the foregoing letter be sent with copy of the Chief Secretary's letter of the 4th. and extract from the Court's proceedings of the 12th. instant to the Criminal Judge on the Gilla of Combaconum, and that he be by precept commanded to send up a certified copy of the proceedings held before him in the case in question with as little delay as possible.

/Sent following Receipt A/5

Read letter, dated the 17th. instant, from the Magistrates on the Gilla of Masulipatam, Submitting

submitting certain queries regarding the authority of Police Officers

Here enter No 1985

The Magistrate submits, on the first place, "whether it be necessary for a Police "Officer to issue a written Summons or warrant "for a person against whom a complaint may be "preferred; or whether it be lawful for the Police "Officer to cause the attendance of such person by "sending a police peon for him."

In all cases where the person preferring the complaint may accompany the peon deputed to apprehend the accused, it will not be necessary that the peon should be furnished with any written Summons or warrant, but when the prosecutor may be unable to accompany the peon, or where a person who may have been brought before a Police officer shall criminate another person, as will be on the case specified in Section XXII. of Regulation XI of 1816, it is obviously requisite that the peon should be furnished with a written Summons or warrant, authorizing him to apprehend & cause the attendance of the accused before the Police officer to answer the

the charge preferred against him.

The other question submitted for the determination of the Sudder Adalut is, "whether, suffering a summons, or warrant to "be unnecessary, a man be liable to any punish- "ment for resisting the authority of a Police "Officer by refusing to obey the peon; and if "liable to punishment, by whom and to what "extent the punishment inflicted.

All cases of resistance to the process of a Police Officer should be reported by such Police Officer to the Magistrate of the zilla. — If the person so charged shall have been apprehended, notwithstanding such resistance, the Court hold that he will be liable to be punished for the same, either by the Magistrate or by the criminal Judge, according to the degree of aggravation with which the resistance was attended. — But if the person shall not have been apprehended, and it shall be satisfactorily proved to the Magistrate that the resistance was made to a peon while in the actual execu- tion of his duty, it will be competent to the Magistrate to issue process for the apprehen- sion

27th March 1818.

...ment of the accused and further to proceed in the case as prescribed in the Regulations.

Ordered that extract of these proceedings be sent to the Magistrate in the Zilla of Masulipatam for his information and guidance.-

/Sent following letter A/

At a Court of the Foujdaree Adalut-

Present.

Wednesday 1st April 1818.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.
~~George Stockton Esqre~~

Read letter, dated the 27th ultimo, from the Secretary to Government in the Judicial Department,- sanctioning the disbursement of Rupees 1000 by the Magistrate of Cuddapah in payment of the reward formerly offered under the provisions of Regulation XIII of 1809 for the apprehension of Sungum Nurdeigundoo.-

/Here enter No. 206/

Ordered that copy of the foregoing letter and extract from the proceedings of the 13th Instant be sent to the Magistrate in the Zilla of Cuddapah for his information.-

Sent following letter

/Here enter A/

Read

1st April 1818.

Read letter, dated the 20th ultimo, from the 2d Judge on Circuit in the Northern Division, requesting instructions as to the trial of a private Servant of Mr. D. Oakes upon certain charges.

/Here enter No. 207/

With regard to the point immediately submitted for the determination of the Sooddaree Adalut, the Court deem it necessary only to direct that the Second Judge of the Court of Circuit in the Northern Division do, on his return to the Sudr station from the Zilla of Ganjam, hold a sitting at Rajahmundry for the trial of Combaconum Ramasawmy Naidoo who, as is shewn by the extract from the Rajahmundry Calendar which accompanies the foregoing letter, has been committed by the Criminal Judge of that Zilla, on the ground of certain charges preferred against him on the part of Government, to take his trial before

1st April 1818

before the Court of Circuit.-

It further appears, however, from the letter of the Judge on Circuit that, prior to the commitment of Ramasawmy Naidoo, the Criminal Judge put two questions to his Mohammadan Law Officer as to the punishment to which the prisoner would be liable, under the Mohammadan Law, in the event of his being convicted of the acts laid to his charge.-

The reference so made by the Criminal Judge of Rajahmundry is not warranted by the Regulations.- In all cases where it may appear to a Criminal Judge that a person brought before him has committed a criminal offence which has not been specially provided for by any Regulation and for which the degree of punishment prescribed in Section VII Regulation X of 1816 shall not appear to be sufficient,

it

1st April 1818.

Read letter, dated the 20th ultimo,
from the 2d Judge on Circuit in the Northern
Division, requesting instructions as to the trial
of a private Servant of Mrs. H. Baker upon
certain charges.

/Here enter No. 207/

With regard to the point immediately submitted for the determination of the Sooudaree Adalut, the Court deem it necessary only to direct that the Second Judge of the Court of Circuit in the Northern Division do, on his return to the Sudr Station from the Zilla of Ganjam, hold a sitting at Rajahmundry for the trial of Combaconum Ramaswamy Naidoo who, as is shewn by the extract from the Rajahmundry Calendar, which accompanies the foregoing letter, has been committed by the Criminal Judge of that Zilla, on the ground of certain charges preferred against him on the part of Government, to take his trial before

1st April 1818

before the Court of Circuit.-

It further appears, however, from the letter of the Judge on Circuit that, prior to the commitment of Ramaswamy Naidoo, the Criminal Judge put two questions to his Mohammedan Law Officers as to the punishment to which the prisoner would be liable, under the Mohammedan Law, in the event of his being convicted of the acts laid to his charge.-

The reference so made by the Criminal Judge of Rajahmundry is not warranted by the Regulations.- In all cases where it may appear to a Criminal Judge that a person brought before him has committed a criminal offence which has not been specially provided for by any Regulation and for which the degree of punishment prescribed in Section VIII Regulation X of 1816 shall not appear to be sufficient,

it

1st April 1818.

it is his duty simply to commit the accused or to hold him to bail to take his trial before the Court of Circuit. all questions on points of Mohummudan law will be properly referred to the Provincial Law Officer by the Judge of the Court of Circuit with whom it will also remain to take such further steps as shall to him appear expedient under the general provisions of the Regulations.

Ordered that extract of the proceedings be sent to the Second Judge of Circuit in the Northern Division for his information and guidance and that he be by Precept commanded to make the requisite communication to the Criminal Judge in the Zillas of Rajahmundry for his information and future guidance.

Said following Precept

/Here enter B/

Read return, dated the 9th ultimo from the 3d Judge of the Court of Circuit in the Western Division to precept dated the 9th ultimo, ordering communication to the Criminal Judge of North Malabar of the Court's observations on his irregular reference to the Mahommedan Law Officer.-

/Here enter No. 204/

Read also letter dated the 9th ultimo, from the 3d Judge of the Court of Circuit in the Western Division, with copy of his correspondence with the Magistrate of Malabar and his observations thereupon.-

/Here enter No. 205/

The Court have derived much satisfaction from a perusal of the general report here submitted by the third Judge of the Court of Circuit in the Western Division respecting the result of the measures which he considered it necessary to adopt in order that the several cases found to be depending before the Criminal Judge of North Malabar

2/ J. C.

1st April 1818.

Malabar and the Magistrate of Malabar
respectively might be brought to an early
termination.

The suggestion contained in
the concluding paragraph of the letter
from the Third Judge dated the 17th ultimo
with regard to extending the provisions
of Section XL Regulation IX of 1816 affords
matter for consideration, but for the present
it seems only necessary to notice a passage
in a return made to the Third Judge by the
Criminal Judge of North Malabar on the
11th ultimo which involves an erroneous
interpretation of a rule laid down by the
Court of Foujdaree Adalut in a Circular
Precept dated the 27th December 1815.

The Third Judge of the Court
of Circuit has pointed out to the Criminal
Judge of North Malabar an irregularity
which he has committed in examining
witnesses for the defence in a case of
burglary, and it was in explanation of

this proceeding that the Criminal Judge
states, in his return above mentioned, that
he had been "guided by the Spirit of the
"Court of Sudr Adalut's precept of the 27th
"December 1815 which expressly orders that
"where Prisoners allege any violence to
"have been used to extort confession that
"the Magistrate require them to support
"the plea by evidence."

The rule here laid down by
the Foujdaree Adalut is to be construed
in connection with the provisions of the
Regulations, which prescribe that before
any person be committed or held to bail
to take his trial before the Court of
Circuit the Criminal Judge shall
examine the prisoner and the complainant
and also such other persons as are stated
to have any knowledge of the crime or
misdemeanor alleged against the prisoner
and that in all cases of a prisoner being
committed or held to bail, the Criminal
Judge

Judge shall further question the prisoner whether he wishes to have any witnesses examined in his defence before the Court of Circuit. Had the Criminal Judge proceeded in conformity with the general rule here laid down and applied the above provision to the particular rule enjoined by the Court of Sunjdarce Adalut he would have found that, according to the spirit of that rule, it is incumbent upon him in all cases of alleged personal violence, to call upon the Prisoner to state whether he has any evidence to adduce in support of his plea, and, in the event of his answering in the affirmative to be careful to cause the attendance of witness or such witnesses before the Court of Circuit but that nothing in the Court's precept of the 27th December 1815 is intended to convey to the Criminal Judge an authority to take the depositions of such witnesses himself, an authority which it is not competent

competent to him to exercise under the general regulations -

Ordered that extract of these proceedings be sent to the Third Judge of the Court of Circuit in the Western Division by precept desiring him to make the necessary communication to the Criminal Judge in the Zillah of North Malabar for his information and future guidance.

Sent following Precept/

/Here enter 6./

Read letter, dated the 19th ultimo, from the Criminal Judge in the Zillah of Darapooram, with reports prescribed by Section XXXVI Regulation X of 1816.-

/Here enter No. 200./

Read return, dated the 15th ultimo, from the Provincial Court of Circuit in the Centre Division, - to precept dated 4th ultimo ordering communication to the Magistrate of Chingleput of the Court's observations respecting the delay in forwarding to the Criminal Judge

1st April 1818.

Judge certain persons apprehended.-

/Here enter No. 201./

Read return, dated the 15th ultimo, from the Provincial Court of Circuit in the Centre Division, to circular precept dated 2d instant ordering communication to the several Magistrates of the Court's direction that they do lay before the Judge of Circuit at each Sessions delivery a statement of crimes committed within their respective Jurisdictions.-

/Here enter No. 196./

Read return, dated the 16th ultimo, from the 2d Judge on Circuit in the Northern Division,- to precept dated 10th ultimo, ordering communication to the Zillah Judge of Nellore of the Court's observations on the letter of the 2d Judge on Circuit transmitting copy of the Nellore Calendar for Sessions A.D. 1818.-

/Here enter No. 197./

Read letter, dated the 19th ultimo, from the 1st Judge on Circuit in the Western Division,- reporting his arrival at Calicut.-

/Here enter No. 202./

Read letter, dated the 25th ultimo, from the 2d Judge on Circuit in the Centre Division,- reporting his arrival at Chingleput.-

/Here enter No. 208./

Read letter dated the 26th ultimo, from the Judge in the Zillah of Chingleput,- reporting the arrival of a female convict from the Zillah of Malabar.-

/Here enter No. 206./

R.A.

M

W.

(copies)

711.

At a Court of the Foujdaree Udalut.

Present,

Thursday 2nd April 1818. Andrew Scott Esqre — Edward Croft Greenway Esqre } Judges.

Read letter, dated the 25th ultimo,

M from the 3d Judge of the Court of Circuit in the Western Division,- submitting for the information and orders of the Court certain documents and correspondence relative to the establishment of the Lunatic Hospital.-

/Here enter No. 211./

The only part of the foregoing correspondence which appears to call for remark from the Court of Foujdaree Udalut is that which relates to the measures adopted by the Magistrate of Malabar in promulgating throughout his district, the nature and object of the lunatic hospital lately established at Tellicherry.

It would appear that the Magistrate

Magistrate of Malabar on receiving Circular instructions from the Provincial Court, issued a proclamation announcing that the relations of dangerous lunatics, who neglected to send such lunatics to Tellicherry would be held responsible for any acts of violence they might commit and commanding his native Officers to report any instances of deviation from the orders of the Magistrate. It further appears that Moochulkas have actually been required from individuals by the Native Officers under the orders of the Magistrate, wherein such individuals bind themselves to be "responsible for acts committed by their insane relations" and to abide such "punishment as may be adjudged for "those acts." The Third Judge has recommended to the Magistrate that he should recal the orders issued to his Native Servants and cancel the Moochulkas above mentioned, and he now submits the

case

case for the final determination of the Foujdaree Adalut.

It was declared by the Court of Foujdaree Adalut in their instructions of the 12th December last, that the Lunatic hospitals then about to be established were intended for the reception and care of Lunatic prisoners, as also of "insane persons" from whose insanity "danger might be apprehended and whose friends might be unable to take such "care of them as might prevent the "possibility of their doing any mischief." The Court desired, therefore, that the nature and object of the institution might be promulgated and that Magistrates should send to the said station insane persons coming within the description here mentioned.

Under these instructions of the Foujdaree Adalut it was plainly incumbent upon the Magistrate of

to

to make known only in the first instance, the
nature and object of the institution, and
subsequently to send to the Sudr Station
all persons whose personal liberty might
be considered, from the dangerous character
of their insanity, to be inconsistent with
the safety of the community and whose friends
might be unable or unwilling to take
such care of them as should prevent
the possibility of their doing any mischief.

It only remains for the Court
to observe that the orders which have been
issued by the Magistrate are altogether
irregular and unauthorized, and to direct
that the powers which have been
vested in the Native Officers be recalled
and that the Moochulkas which have
been taken under the proclamation
of the Magistrate be cancelled without
delay.-

Ordered that extract of these
proceedings be sent to the Third Judge

2/ 766.

2nd April 1818

of the Court of Circuit in the Western
Division to be by him communicated
to the Magistrate of Malabar for his
information and guidance.-

Sent following letter

R.A.

M

/Here enter A/

Read letter, dated the 24th ultimo,
from the 2d Judge on Circuit in the Southern
Division, requesting to be informed whether
the powers of receiving the complaints as
described in Sections XXVII Regulation XI
of 1816 be vested in the Tahsildars only
or extended to the Peishcars Gomashtas
and Peons.-

/Here enter No. 215.-/

The powers described in Section
XXVII Regulation XI of 1816 are vested
exclusively in the Tahsildar or Native
Collector by whatever name designated
who may be ex-officio Head Police
officer of the district; and with regard
to the further question submitted by
the

to make known only in the first instance, the
nature and object of the institution, and
subsequently to send to the Sudr station
all persons whose personal liberty might
be considered, from the dangerous character
of their insanity, to be inconsistent with
the safety of the community and whose friends
might be unable or unwilling to take
such care of them as should prevent
the possibility of their doing any mischief.

It only remains for the Court
to observe that the orders which have been
issued by the Magistrate are altogether
irregular and unauthorized, and to direct
that the powers which have been
vested in the Native Officers be recalled
and that the Moochulkas which have
been taken under the proclamation
of the Magistrate be cancelled without
delay.-

Ordered that extract of these
proceedings be sent to the Third Judge

7

2/ J. A.

2nd April 1818

of the Court of Circuit in the Western
Division to be by him communicated
to the Magistrate of Malabar for his
information and guidance.-

Sent following letter

R. A.

/Here enter A/

M

Read letter, dated the 24th. ultimo,
from the 2d. Judge on Circuit in the Southern
Division, requesting to be informed whether
the powers of receiving the complaints &c
described in Section XXVII Regulation XI
of 1816 be vested in the Tahsildars only
or extended to the Peishcars Gomashtas
and Peons--

/Hereunto No. 215.-/

The powers describes in section
XXVII Regulation XI of 1816 are vested
exclusively in the Tahsildar or Native
Collector by whatever name designated
who may be ex-officio Head Police
officer of the district; and with regard
to the further question submitted by
the

the Second Judge on Circuit regarding
the authority of Cutwals, the Court
deem it sufficient particularly to direct
the attention of the Second Judge to
Section XXIV of the Regulation above
mentioned which expressly declares
that "Cutwals and their Peons wherever
"it may be necessary to employ them shall
"be subject to the authority" not only
"of the Tahsildar" or Police Officer of the
District but also of the "Heads of Villages"
who are themselves subordinate to the
authority of the District Police Officer.-

The Court of Foujdaree Adalut
trust that the Second Judge on Circuit
has taken steps in order that the circum-
stances attending the alleged illegal
exercise of authority referred to in his
communication may undergo such an
investigation as is obviously requisite
for the ends of public justice.-

Ordered that extracts of
these

proceedings be sent to the Second
Judge on Circuit in the Northern Division
for his information and guidance.-

Sent following letter

(Here enters B/5

At a Court of the Foujdaree Udalut.

Saturday
4th April, 1818. Present

Andrew Scott, Esqr. ..... } Judges.
Edward Croft Greenway, Esqr. }

Read a letter, dated the 23d ultimo,
from the Third Judge of the Court of Circuit in the
Western Division, — forwarding a copy of correspondence
with the Criminal Judge of North Malabar respecting
the corrupt practices of certain Ministerial Officers
of the zilla Court.

[Here enter No. 212.]

The document which has led to the
present reference is a proceeding purporting to be a precept
issued by the Third Judge of the Court of Circuit to the
Criminal Judge in the zilla of North Malabar, on the
subject of certain informations which had been brought
to the knowledge of the Third Judge regarding the
conduct of a ministerial officer in the Criminal Depart-
ment of the zilla Court. The document in question
bears on its face the words "Secret and confidential;"
but it is addressed to the "Criminal Judge in the
zilla of North Malabar" [illegible] and
it is given under the Hand and Seal of the
"Third

4th April 1818

"Third Judge of the Court of Circuit."

A document to signed and sealed by a Judge of the Court of Circuit and by him addressed to a Criminal Judge cannot be viewed in any light other than that of a public official act; and it is the duty of the Foujdaree Adaulut to remark that in declaring such a document to be "Secret and confidential" the Third Judge exercised a discretion altogether unwarranted by the Regulations and inconsistent with the nature and character of his office.

Had the above document, however, been confined only to the foregoing remarks, the Court would have been willing to attribute the act of the Judge to an ardent though mistaken zeal for the public interests, but the Court regret to add that they are unable to put a similar construction on that part of the concluding paragraph of the precept which contains a pointed allusion, of an entirely personal nature, respecting the gentleman who holds the office of Criminal Judge of the Zilla of North Malabar. The allusion so introduced is obviously improper [illegible] not only as being altogether foreign to the immediate object of the precept but as evincing a feeling [illegible] irreconcileable with that calm

4th April 1818

calm dispassionate exercise of the judgment which can alone ensure the due and efficient discharge of public duty.

Ordered that extract of these proceedings be sent to the Third Judge of the Court of Circuit for the Western Division, to be by him communicated to the Criminal Judge on the Zilla of North Malabar.

[Sent following letter N: 215]

Read letter, dated the 20th ultimo, from the Third Judge of the Court of Circuit on the Northern Division, transmitting copy of Muselpatam Calendar 1st Quarterly Sessions of 1818 and requesting instructions of the Court upon the extent of certain provisions of the Regulations.

[Wrote letter N: 213]

The Third Judge of the Court of Circuit referring, in the first place, to the provisions in the Regulations which empowers the Magistrates to commit offenders to prison in the Zillas [illegible] and a Village Chowkey as to them may seem proper, requests to be informed whether it is the duty of the Judge of Circuit to visit those latter places of confinement so as to limit his visits exclusively to the jails under the Superintendence

and

4th April 1818

control of the Criminal Judges.

The visit required to be made by the Judge of Circuit at each Sessions of jail delivery is to be limited to the Zilla jail; and with regard to the discretion vested in the Magistrate as to the place of confinement for offenders who may be by him committed to prison under Sections XXXII and XXXIII of Regulation IX of 1816. It is to be supposed that the Tahsildars sent to the Magistrate in regard to confining offenders in the Village Choukies will be exercised chiefly in cases where the Magistrate may be absent from the Zilla station, and that commitments made by the Magistrate or Assistant Magistrate at the Zilla station, under the Sections above quoted, will generally be to the jail of such Zilla station.

The third Judge requests to be informed, in the second place, whether the names of persons released by the Tahsildars are or are not to be included in the Calendars to be presented by the Magistrate under clause first Section XI of Regulation IX of 1816.

The first of the two Calendars required to be delivered to the Court of Circuit under the clause of the Section abovementioned is to contain only the

2d

4th April, 1818

names of persons who may have been discharged by the Magistrate for want of sufficient evidence. It is the duty of the Magistrate, however, to inform the District police officers are bound to report all cases of deceased complaints, with the exception of the trivial complaints noticed in clause second Section XXXII of Regulation XI of 1816, to exercise a vigilant control over this as well as over every other act of authority on the part of his Police officers; and further experience, proceeded on such information as may be brought, from time to time, before the Court of Foujdaree Udalut, must determine whether the provisions to which the third Judge has referred require to be extended.

Ordered that extract of these proceedings be sent to the third Judge of Circuit in the Northern Division, for his information and guidance.

Sent following letter R.S.

F. U.

At a Court of the Foujdaree Udalut

Present

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges

Monday
6th April 1818.

Read Return, dated the 27th Ultimo,

from the Acting Criminal Judge in the Zilla of Combaconum, - to precept dated 27th Ultimo calling for certified Copy of the proceedings held in a certain Criminal Case to be submitted to the Government.—

(Here enter No 224)

It being necessary as prescribed in Section XXXVII Regulation VII with regard to trials which may be referred to the Foujdaree Udalut that an English translation of the proceedings held in this Case should be submitted to the Court;—

It is ordered that the acting Criminal Judge in the Zilla of Combaconum be by precept commanded to send up without delay English translation of the Proceedings held in Case No. 107 of 1817.—

(Sent following Precept A/1)

J. M.

At a Court of the Tongdarees Adalut.

Present.

Thursday 6th April 1848. Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges

M

E.G.S

Read return, dated the 6th ultimo, from the 1st Judge of the Court of Circuit in the Southern Division, - to precept dated 9th Ultimo, calling for additional evidence in case No. 1 Trichinopoly Calendar 1st Sessions A.D. 1848.-

/Here enter No. 181./

Read again letter, dated the 7th January from the 1st Judge of the Court of Circuit in the Southern Division, - submitting Trial No. 1 of the Trichinopoly Calendar 1st Sessions A.D. 1848.-

/Here enter No. 69.-/

The Court having maturely considered the Proceedings held before the Judge of Circuit the Futwa of the Provincial Law

9th April 1818

Law Officer and the Futwa of the Cazeeahd-
-Cozzat and Mooftees of the Sudder Adalut
confirm the said Futwa of the Cazee-oolc-
-Cozzat and Mooftees aforesaid and under
the sentence of Kisaas declared in the Futwa
adjudge the Prisoner
"Vyapoory Chitty"
to suffer death by being hanged at the
usual time and place of execution.-

Sent following letter.

/Here enter N.S/

Read return, dated the 28th ultimo
from the 2d Judge on Circuit in the Northern
Division,- to precept dated 11th ultimo containing
the remarks of the Court on the Guntoor Calendar
1st Sessions A.D. 1818 and ordering transmission
of Copy of the Futwah given in case No. 32
of that Calendar.-

/Here enter No. 283/

Read again letter, dated the 27th
February last, from the Second Judge on
Circuit in the Northern Division,- with
copies

9th April 1818

copies of Guntoor Calendar and Supplemental
Calendar- 1st Sessions A.D. 1818.-

/Here enter No. 176/

The futwa in No. 32 of the
Guntoor Calendar for the 1st Sessions of 1818.
declares that the twelfth, thirteenth, four-
-teenth fifteenth and sixteenth Prisoners
are convicted of having committed the
robbery and are therefore liable to Kohroobut-
-i Shudeeda; and that "Tohmut" or
"Suspicion" attaches to the sixth, seventh,
ninth and eighteenth Prisoners by reason
of their having been present at the melting
down of the Stolen ornaments, as deposed
to by the third and fourth witnesses, as
also to the seventeenth Prisoner on the
evidence of the sixth witness, and that
they are therefore liable to Kohroobut-i
Khufeefa.- The prisoners have declared
to be liable to Kohroobut-i- Shudeeda
have been sentenced to nine, and those
declared liable to Kohroobut-i Khufeefa
have

9th April 1818.

Law Officer and the Futwa of the Cazee.ool.
=Cozat and Mooftees of the Foujdaree Adalut
confirm the said Futwa of the Cazee.ool=
=Cozat and Mooftees aforesaid and under
the sentence of Kisaas declared in the Futwa
adjuge the Prisoner
"Vyapoory Chitty"
to suffer death by being hanged at the
usual time and place of execution.-

Sent following letter.

/Here enter N.5

Read return, dated the 28th ultimo
from the 2d Judge on Circuit in the Northern
Division,- to precept dated 11th ultimo containing
the remarks of the Court on the Guntoor Calendar
1st Sessions A.D. 1818 and ordering transmission
of Copy of the Futwah given in case N.32
of that Calendar.-

/Here enter N.223/

Read again letter, dated the 27th
February last, from the Second Judge on
Circuit in the Northern Division,- with
copies

9th April 1818

copies of Guntoor Calendar and Supplemental
Calendar- 1st Sessions A.D. 1818.-

/Here enter N.174/

The futwa in N.32 of the
Guntoor Calendar for the 1st Sessions of 1818.
declares that the twelfth, thirteenth, four=
=teenth fifteenth and sixteenth Prisoners
are convicted of having committed the
robbery and are therefore liable to Kohroobut=
=i Khudeeda; and that "Tohmut" or
"suspicion" attaches to the sixth, seventh,
ninth and eighteenth Prisoners by reason
of their having been present at the melting
down of the stolen ornaments, as deposed
to by the third and fourth witnesses, as
also to the seventeenth Prisoner on the
evidence of the sixth witness, and that
they are therefore liable to Kohroobut=i
Khufeefa.- The prisoners have declared
to be liable to Kohroobut-i-Khudeeda
have been sentenced to nine, and those
declared liable to Kohroobut-i-Khufeefa
have

have been sentenced to seven years' imprison=
=ment and hard labour.-

The sentence so passed by the
Second Judge on Circuit on the prisoners who
are declared in the Future to be liable, on
Johmut or Sulpicion, to Pehoobtubi. Khuj
is not warranted by the Regulations which
expressly declare that the Courts of Criminal
Judicature are not authorized to inflict
any punishment whatever upon suspicion
only when the evidence against the prison
is undeserving of credit or the presumption
of his guilt does not amount to the
degree of strong presumption held suffic
for conviction

It will be the duty of the Sec
Judge, therefore, to review such part of the
proceedings held in the Number of the
Calendar aforesaid as relates to the prison
in question, and, unless he shall see cause to
disapprove the opinion declared in the Fu
to pass sentence in conformity with the
provisi

provisions of clause Sixth Section II Regulatio
9th April 1818 XV of 1793.-

Having recorded these observa
tions on the case immediately before them,
the Court deem it proper to observe that
the present instance shews the insufficiency
of the future and of the sentence of the Court,
as generally recorded by the Judges of
the Court of Circuit in the Northern
Division in the last Column of the Calendars,
and they accordingly direct that, in submitting
future Calendars for the information of the
Sunderee Adalut, the Judges of the Court of
Circuit in the Northern Division do enter, in
abstract, not only the sentence declared in
the future but also the grounds, whether
of confession or of the evidence of credible
witnesses or of presumptive proof or of
suspicion, on which such sentence is
founded.-

With regard to the several cases
wherein the prisoners has been ordered to
give

9 9th April 1818

have been sentenced to seven years' imprison=
=ment and hard labour -

The sentence so passed by the
Second Judge on Circuit on the prisoners who
are declared in the Futwa to be liable, on
Johmut or Suspicion, to Corporeal Punish=
ment is not warranted by the Regulations which
expressly declare that the Courts of Criminal
Judicature are not authorized to inflict
any punishment whatever upon suspicion
only when the evidence against the prisoner
is undeserving of credit or the presumption
of his guilt does not amount to the
degree of strong presumption held sufficient
for conviction

It will be the duty of the Second
Judge, therefore, to review such part of the
proceedings held in the Number of the
Calendar aforesaid as relates to the prisoner
in question, and, unless he shall see cause to
disapprove the opinion declared in the Futwa
to pass sentence in conformity with the
provisions

2/ F. U.

9th April 1818

provisions of clause Sixth Section IV Regulation
XV of 1803 -

Having recorded these observa=
=tions on the case immediately before them,
the Court deem it proper to observe that
the present instance shews the insufficiency
of the information contained in the abstract
of the futwa and of the sentence of the Court,
as generally recorded by the Judges of
the Court of Circuit in the Northern
Division in the last Column of the Calendars,
and they accordingly direct that, in submitting
future Calendars for the information of the
Sudder Dewanny Adalut, the Judges of the Court of
Circuit in the Northern Division do enter, in
abstract, not only the sentence declared in
the futwa but also the grounds, whether
of confession or of the evidence of credible
witnesses or of presumptive proof or of
suspicion, on which such sentence is
founded -

With regard to the several cases
wherein the prisoners have been ordered to
give

give security, which attracted the attention of the Court on the 11th ultimo, it is necessary only to observe that, if the Second Judge shall be of opinion that there is neither strong suspicion against the prisoners nor proof of notorious bad character, it will be incumbent upon him to direct that they be forthwith set at liberty.-

Ordered that extract of these proceedings be sent to the Second Judge on Circuit in the Northern Division for his information and guidance.-

Sent following letter.

/Here enter B./

Ordered also that such parts of these proceedings and of the proceedings of the 11th ultimo as relate to the abstracts to be entered in the last columns of the Calendars by the Judges on Circuit be forwarded to the Court of Circuit in the Northern Division for their information and future guidance.-

Sent following letter

/Here enter C./

Read letter, dated the 2d instant, from the Acting Criminal Judge in the Zillah of Bellary,- submitting a question relative to the construction of Section VIII Regulation X of 1816.-

/Here enter No. 227./

The Section of the Regulation here quoted relates exclusively to the mode in which Criminal charges or informations are to be brought before a Criminal Judge; but nothing contained in the aforesaid Section is intended to fetter, in any degree, the subsequent proceedings of the Criminal Judge whose duty it is, according to the spirit of the Court's Circular instructions of the 17th January 1814, to frame the indictment against such Prisoners as may be by him committed to take their trial before the Court of Circuit.-

Ordered that extract of these proceedings be sent to the Acting Criminal Judge in the Zillah of Bellary for his information and future guidance.-

/Sent following letter D./

9th April 1818

Read letter, dated the 24th ultimo,
from the Secretary to Government in the Judicial
Department, - desiring that the proceedings of
the Magistrate of Vizagapatam, which have
led to the attachment of the Zemindaries of
Bobely and Tungumoulah may be taken
into consideration at as early a period as
practicable and be submitted with the
Proceedings of the Court for the consideration
of the Governor in Council; and desiring
also that the Court will state whether, in
their opinion, it would be desirable as a
general rule that attachment of lands
should not be enforced without the
sanction of the same authority whose
sanction is required for forfeiture.-

/Here enter No. 228./

A precept was issued to the
Magistrate of Vizagapatam on the 16th ultimo
desiring him to send up an English translation
of the proceedings held by him in the case
abovementioned with as little delay as
possible.-

With

3/2 U.

9th April 1818.-

With regard to the question
referred for the consideration of the Foujdaree
Adalut the Court have to observe that it has
been deemed necessary to declare, by an
enactment of the Legislature, that in all
cases of resistance to the process of a Magistrate
by proprietors of lands it shall be the
duty of that Magistrate, after proceeding
in the manner prescribed in the Regulations
to declare the lands to be forfeited to
Government and to hold them in attachment
until the receipt of the orders of the
Governor in Council to be communicated
in the manner therein directed; and the
particular sentiments of the Court, on this
as well as on the other points of the provisions
here referred to, were submitted to Government
in the proceedings of the Foujdaree Adalut
of the 26 July & 15th August 1816.-

Ordered that extract of these
proceedings be sent to the Secretary
to Government in the Judicial Department

for

9. 9. 2. April 1818

Read letter, dated the 24th ultimo,
from the Secretary to Government in the Judicial
Department, - desiring that the proceedings of
the Magistrate of Vizagapatam, which have
led to the attachment of the Zemindaries of
Boobely and Bungamunkah may be taken
into consideration at as early a period as
practicable and be submitted with the
Proceedings of the Court for the consideration
of the Governor in Council; and desiring
also that the Court will state whether, in
their opinion, it would be desirable as a
general rule that attachment of lands
should not be enforced without the
sanction of the same authority whose
sanction is required for forfeiture -

/Here enter No. 228./

A precept was issued to the
Magistrate of Vizagapatam on the 10th ultimo
desiring him to send up an English translation
of the proceedings held by him in the case
abovementioned with as little delay as
possible --

With

3/ L. U.

9th April 1818.

With regard to the question
referred for the consideration of the Foujdaree
Adalut the Court have to observe that it has
been deemed necessary to declare, by an
enactment of the Legislature, that in all
cases of resistance to the process of a Magistrate
by proprietors of lands it shall be the
duty of the Magistrate, after proceeding
in the manner prescribed in the Regulations
to declare the lands to be forfeited to
Government and to hold them in attachment
until the receipt of the orders of the
Governor in Council to be communicated
in the manner therein directed; and the
particular sentiments of the Court, on this
as well as on the other points of the provisions
here referred to, were submitted to Government
in the proceedings of the Foujdaree Adalut
of the 29 July & 15th August 1816 --

Ordered that extract of these
proceedings be sent to the Secretary
to Government in the Judicial Department

for

for the purpose of being laid before the
Right Honorable the Governor in Council
Sent following letter
/Here enter 6/5
Read letter, dated the 27th ult.
from the 2d Judge on Circuit in the Northern
Division, - submitting with observations on
No. 2 Rajahmundry Calendar 1st Session of
1818.-
/Here enter No. 220./
The Court having considered
the proceedings which have been held by
the 2d Judge on Circuit in the above cited
in conformity with the Court's circular
instructions of the 29th October 1817, are
of opinion that the fact of the Prisoner
insanity, either at the time of the perpetration
act laid to his charge or at the time of the
examination lately taken before the above
Judge, is not established, and that the
Prisoner, Cootooty Parvateeam, should be
tried on the charge specified in the Calendar
at the Criminal Sessions to be held at Ryde

by the Second Judge on his return from
Ganjam under the Court's instructions of
the 1st Instant.-
Ordered that extract of these
proceedings be sent to the Second Judge
on Circuit in the Northern Division
for his information and guidance.-
Sent following letter
/Here enter 7/5
Read letter, dated the 1st instant,
from the 2d Judge on Circuit in the Centre
Division, - with copy of Chingleput Calendar
1st Session A.D. 1818.-
/Here enter No. 221./
Read letter, dated the 24th ultimo
from the Criminal Judge in the Zilla of
Guntoor, - with reports prescribed by Section
XXXIV Regulation X of 1816.-
/Here enter No. 216./
Read return, dated the 3d instant
from the acting 3d Judge on Circuit in the
Southern Division, - to precept dated 23d
ultimo, calling for record of proceedings
in

in Case Nos 9 and 10 Combaconum Calendar
1st Sessions A.D. 1818.-

/Here enter No. 228./

Read letter, dated the 1st instant,
from the 2d Judge on Circuit in the Northern
Division,- reporting his intention of leaving
Rajahmundry on the 2d Instant for Vizagapa-

/Here enter No. 230./

Read letter, dated the 4th instant
from the Criminal Judge in the Zillah of
Salem,- certifying execution of the Court's
orders under date 11th ultimo directing his
to deliver certificates of pardon to the
Phandegar informers.-

/Here enter No. 229./

Read report, dated the 31st ultimo,
from the Criminal Judge in the Zillah of
Madurfpatam,- [illegible] of prisoners
sentenced under Section XXXVII Regulation
X of 1816.-

/Here enter No. 226./

RA

805

W

Apld

J. U.

At a Court of the Foujdaree Adalut

Present,

Monday
13th April 1818. Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges.

Read return, dated the 21st ultimo,
from the 2d Judge on Circuit in the Centre
Division,- to precept dated 19th ultimo
calling for additional evidence in case
No. 23. Cuddapah Calendar 1st Sessions
A.D. 1818.-

GW

/Here enter No. 214/

Read again letter, dated the 6th
February from the 2d Judge on Circuit
in the Centre Division,- submitting case
No. 23 Cuddapah Calendar 1st Sessions
A.D. 1818.-

/Here enter No. 125./

The Court having maturely
considered the Proceedings held before the Judge
on Circuit the futwas of the Provincial
Law Officer and the futwas of the Cazee
-ool Cozat and Mooftees of the Foujdaree
Adalut

9th April 1818.

13th April 1818

Adalut confirm the said finding of the Cazee and Coojut and Mooftee aforesaid and adverting to the opinion declared in the finding regarding the insanity of the Prisoner.-

"Chontee Mullapah"

the Court direct that the Criminal Judge in the Zilla of Cuddapah be summoned to ascertain whether the friends of the Prisoner are able and willing to undertake such care of him as may prevent the possibility of his doing any mischief and in such case, to deliver him into their charge and that, in the event of any unwillingness or inability on their part to receive charge of the Prisoner, the Criminal Judge be empowered to confine him in such place and manner as, consistently with regard to the public safety, shall to him appear expedient.

Sent following letter

/Here enter A./

Read letter, dated the 9th instant,

from the Criminal Judge in the Zilla of

* And on no account to release the said prisoner without the permission of the Foujdary Adalut, to whom the Criminal Judge will from time to time report the state of the Prisoner's mind through the Judges of the Court of Circuit.-

13th April 1818

Chingleput,- reporting the expiration of the term of imprisonment sentenced on a Convict whom he begs permission to release at Chingleput instead of forwarding him to Tinnevelly.-

/Here enter No. 236./

The Court of Foujdaree Adalut in consideration of the infirm state of the Prisoner's health authorize and direct the Criminal Judge in the Zilla of Chingleput to liberate the Prisoner, China Mootoo, in the Zilla of Chingleput instead of forwarding him to the Criminal Judge in the Zilla of Tinnevelly.-

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Chingleput for his information and guidance.-

Sent following letter

/Here enter B./

Read letter, dated the 7th instant,

from the Criminal Judge in the Zilla of Chingleput,- reporting the arrival of a Convict from the Zilla of Madura under sentence of transportation.-

/Here enter No. 235./

Read

15 April 1818

Udalut confirm the

[illegible] letter dated the [illegible] instant,

[illegible] Judge - Circuit in the

[illegible] commenced

[illegible]

/Here enter No. 237./

Read letter, dated the 1st instant,

from the 2d Judge on Circuit in the Northern

Division, with copy of Raja's summary

Calendar for Sessions A.D. 1818.-

/Here enter No. 238/

The Court desire to have before

them a copy of the Futwa delivered by the

Provincial Law Officer in case No. 7 of

the foregoing Calendar wherein it appears

that the first Prisoner has been sentenced

under Ashoobut - i.e. Khasfisa, to simple

ment and hard labour for one and that

the second and third Prisoners have been

sentenced under Ashoobut, to simple

and hard labour for four years -

Ordered therefore that the

Second Judge on Circuit in the Northern

Division, be by Precept directed

to send up a copy of the Futwa delivered

by the Provincial Law Officer in

2/ F. A.

15th April 1818

case No. 7 of the Rajahmundry [illegible] Sessions of 1817 within

the date of the receipt of

Seat, follow

/Here enter 6/

Read letter, dated the 6th instant,

from the acting 3d Judge on Circuit in the

Southern Division, - forwarding copy of letter

and certificate regarding the situation of

Kistnen, prisoner in the Zillah

Jail at Darapooram whose further con-

=finement he thinks unnecessary. -

/Here enter No 234/

The Court of Faujdaree Udalut

having considered the documents which

accompany the foregoing letter, as well

as the opinion submitted by the acting

Third Judge that the Prisoner may be

liberated from confinement without

danger to the community authorize and

direct the Criminal Judge in the Zillah

of Darapooram to call before him

the friends of the Prisoner and to deliver

him into their charge. - Ordered

15 April 1818 Udalut

9 15th April 1818

Ordered that extract of these proceedings be sent to the acting Third Judge on Circuit in the Southern Division to be by him communicated to the Criminal Judge in the Zilla of Dacca for his information and guidance.--

Sent following letter-

/Here enter D/S

RA

AH

GN

J. 16.

At a Court of the Foujdaree Adalaut

Thursday
16th April 1818.

Present

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges

AH

Read a letter dated the 9th instant from the Third Judge of Circuit in the Southern Division,- forwarding papers connected with the case of a deranged prisoner.-

GN

/Here enter No 239./

The examination submitted with the foregoing letter relates only to the state of the prisoner's mind since his commitment to the Zilla Jail.- It is necessary however, in order to a determination regarding the merits of the case, that certain of the neighbours of the Prisoner should be examined touching the general state of the Prisoner's mind and particularly that evidence should be taken as to the state of his mind at the time of the perpetration of the crime laid to his charge.-

Ordered

9. 15th April 1818.

16th April 1818.

The Court [illegible]

[illegible]

to be [illegible] committed [illegible]

to institute an inquiry [illegible] to cause such inquiry

to be instituted respecting the Prisoner Thomas Mack

on case No. 17. of the Clothier Calendar 2d Quarterly

Sessions of 1818, and to make return within

three weeks from the date of the receipt of the

precept.-

/Sent following Precept No. 15

Read letter, dated the 9th

instant, from the Third Judge of the Court of

Circuit in the Central Division.- with copy of

Clothier Calendar. 2d Quarterly Sessions of 1818.

/Here enter No. 232/

Read letter, dated the 7th instant

from the Crimina[illegible] Judge on the Gaol of Viza-

gapatam,- with reports prescribed by Section

XXXV. Regulation X. of 1816.

/Here enter No. 240/

R.A.

J.H.

At a Court of the Tongdaree Adalut

Monday
20th April 1818.

Present

~~Andrew Scott Esqr.~~

Edward Croft Greenaway Esqr. } Judges.

Read letter, dated the 10th

instant, from the Second Judge on Circuit

in the Northern Division,- requesting that the

prisoners committed for trial on the Gaol of

Ganjam 1st Sessions of 1818 may be removed to

Vizagapatam a Chokey in consequence of

the ravages of the Cholera Morbus.-

/Here enter No. 250/

In consideration of the circum-

stances stated in the foregoing letter the Court

of Tongdaree Adalut authorize the Second

Judge on Circuit in the Northern Division

to hold the 1st Sessions for the delivery of

the Gaol in the Gaol of Ganjam either

at Chicacole or Vizagapatam as to him

may

16: April 1818.

may appear most expedient.—

Ordered that extract of these proceedings be sent to the Second Judge and Circuit in the Northern Division for his information and guidance.—

/sent following letter A/S

Copied

No. 11.

At a Court of the Foujdaree Adalut—
Present,

Wednesday
22nd April 1818. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read letter, dated the 13th instant,
from the Criminal Judge in the Zilla of
Nellore,— with reports prescribed by Section
XXXV. Regulation X of 1816.—

/Here enter No. 241./

of the persons here reported to
three persons, Nos. 22, 23, and 24 in the Report
are stated to have been released, as the
Prosecutor and witnesses had not appeared,
and two persons, Nos. 44 and 45 in the Report,
are represented to have been released as
the Complainant had refused to carry on
the Prosecution.—

Referring to the former of these
two cases the Court desire that the Criminal
Judge in the Zilla of Nellore will state
whether any and what steps were taken

to

to procure the attendance of the Prosecutors and witnesses; and with regard to the latter case in which the persons were charged, the one with theft and the other with having received stolen property (offences such as, on conviction, require punishment for the ends of public justice) the Court deem it their duty to observe that it was incumbent upon the Criminal Judge, provided there appeared to be evidence sufficient to put the prisoners on their trial, to adopt the necessary measures under the Regulation either for the trial of the prisoners before himself or, as the case might be, for their trial before the Court of Circuit.-

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Nellore by Precept directing him to make return within five days from the date of the receipt of the Precept.

Sent following Precept.

/Here enter A/

Read letter, dated the 8th instant from the Criminal Judge in the Zilla of Nellore with

report prescribed by Section XXXV Regulation X of 1816.-

/Here enter No. 249/

An examining the report of persons apprehended in the Zilla of Salem, the Court observe that, in No. 24 of the Report, the Prosecutor has been fined a pagoda of twenty to pay a fine of and the witnesses, to suffer six months imprisonment ten pagodas on to pay a fine of three to suffer a month's imprisonment for gross prevarication and that in Nos. 26, 27 and 28 of the Report, the witness has been fined thirty Rupees or to be confined for six months. for gross prevarication.-

The sentences passed by the Criminal Judge in the Zilla of Salem on the Prosecutor and witnesses in the former and on a witness in the latter of these two cases are not warranted by the Regulations, which only provide for the punishment of persons who may prefer litigious, vexatious or groundless complaints in the petty cases specified in Sections XXXII and XXXIII Regulation IX

Judge

22d April 1818.

of 1816.- It is to be presumed, indeed, that under the previous enquiry required to be made by the Magistrate or by a Police Officer, groundless charges will seldom be brought before a Criminal Judge, and it is obvious to remark that, in all cases of false and malicious accusations where the act charged may be of a heinous nature, the degree of punishment prescribed in the above Regulation would not bear any proportion to the deep malignity of the offence.-

Ordered that extract of these proceedings be sent to the Criminal Judge in the Zilla of Salem for his information and future guidance.-

R.A.

Sent following letter.-

/Here enter B./

Read letter, dated the 17th instant, from the acting Criminal Judge in the Zilla of Trichinopoly,- with reports prescribed by Section XXXV Regulation X of 1816.-

/Here enter No. 255./

In No. 5 of the foregoing report

2/ J. A.

22d April 1818.

report, wherein the Prisoners are charged, the one with having stolen 1108 Rupees and the other with having received the amount, the Court find it to be stated by the Criminal Judge that, as the cause is of a Civil nature, the parties have been referred to the Civil Court, and a similar remark is recorded on No. 26 of the Report wherein the Prisoners are charged with having stolen sundry small articles from the Prosecutrix.-

It not appearing to the Court how charges for theft and receiving stolen property can be referred with any propriety as civil actions to the Courts of Civil Judicature, the Court desire that the acting Criminal Judge in the Zilla of Trichinopoly will explain more particularly the nature of the two charges in question and the grounds on which he considered it necessary to refer the same for determination before the Civil Court.-

Ordered that extract of these proceedings be sent to the acting Criminal Judge

22d April 1818

Judge on the Gillas of Trichinopoly by his precept
desiring him to make return within five
days from the date of the receipt of the
Precept.

No R.A. Sent following Precept.
/Here enter C./s

GW

+ April

J. 16.

At a Court of the Foujdaree Adaulut

Thursday
23d April 1818. Present

Edward Croft Greenway Esqr. ... Judge

Read a letter dated the 25th ultimo
from the Second Judge on Circuit in the Northern
Division - referring his proceedings in case No. 1 first
Trinchinopoly Calendar - 1st Sessions of 1818.
/Here enter No. 2?/

GW

The Fazy and Hindoo Law Officers
of the Foujdaree Adaulut declare in the foregoing
Futwa that the prisoner is convicted, on
strong presumptions of the crime of murder laid
to his charge. The Court, therefore, concurring in
the opinion declared in the Futwa, resolve, under
the provisions of clause third Section II Regulation
XV of 1803, to call upon their Law Officers to
declare by a second Futwa to what specific punish-
ment the Prisoner would have been liable under
the Mohammedan law if he had been convicted
by full legal evidence.

Ordered that extract of these
proceedings

22 23d. April 1818.

proceedings be translated and delivered to the Cojee-
ah. Cozgat and Masters of the Court.

R. B.

J. A.-

At a Court of the Zoujdaree Adalat

Present,

Saturday
25th April 1818. Andrew Scott Esqre
Edward Croft Greenway Esqre

Read return dated the 15th instant
from the acting Criminal Judge i the Zilla
of Combaconum,- to precept dated
Instant ordering him to send up English
translation of the Proceedings held in
case No. 107. of 1817.-

/Here enter No. 25./

Read again return dated 21st
ultimo, from the Acting Criminal Judge
in the Zillah of Combaconum,- to precept
dated 27th ultimo calling for certified copy
of the proceedings held in a certain Criminal
case to be submitted to the Government.-

/Here enter No. 224/

Referring to the letter from
Government of the 24th ultimo, the Court
direct that the foregoing returns be
submitted to the Chief Secretary to
Government

Government for the purpose of being laid before the Right Honorable the Governor in Council.-

Sent following letter

/Here enter A/

Read letter, dated the 20th instant from the Magistrate in the Zilla of Cuddapah Requesting that the sanction of the Government may be obtained for payment of 500 Rupees the amount of reward offered by proclamation for the apprehension of Vencatramoodoo.

/Here enter No. 263./

The Court resolve to submit the foregoing letter to Government and to request that the Right Honorable the Governor in Council may be pleased to authorize the payment to Boodai Naik and others of the sum of five hundred Rupees which was offered under the provisions of Regulation XIII of 1816 for the apprehension and delivery into custody of Vencatarramoodoo.-

Ordered that the foregoing letter

letter with extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

Sent following letter

/Here enter B/

Read letter dated the 11th instant from the 2d Judge on Circuit in the Northern Division,- reporting his arrival at Vizagapatam.-

/Here enter No. 258./

Read return dated the 14th instant from the 2d Judge on Circuit in the Northern Division,- to precept dated 2d ultimo, ordering communication to the Criminal Judge at Guntoor of the Courts instructions relative to an insane prisoner.-

/Here enter No. 257./

Read letter, dated the 15th instant from the Criminal Judge in the Zilla of Madura,- with report prescribed by

by Section XXXV Regulation X of 1816.

/Here enter No. 256./

Read letter, dated the 14th instant from the Criminal Judge in the Zilla of Tinnevelly,- with reports prescribed by Section XXXV Regulation X of 1816.-

/Here enter No 254/

Read return, dated the 13th instant from the 3d Judge of the Court of Circuit in the Western Division,- to precept dated 1st instant ordering communication to the Criminal Judge North Malabar of certain observations recorded on the Court's proceedings of that date.-

/Here enter No. 253./

Read letter dated the 10th instant from the 3d Judge of the Court of Circuit in the Western Division,- forwarding with observation copies of four supplemental Calendars for North Malabar 1st Sessions A.D. 1818.-

Ordered /Here enter No. 247./

Monday 27th April 1818

At a Court of Oyer & Terminer Adcalut

Present

Andrew Scott Esqr.
Edward Croft Greenway Esqr. } Judges.

Read again letter dated the 25th ultimo from the Second Judge on Circuit in the Northern Division,- referring his proceedings in case No. 1. first Regt. commanded by Colonel Sydenham 1st Sessions of 1818.

/Here enter No. 217./

Read the several letters delivered in this case by the Cazee-ul-Cozat and Mooftee of the Zoujdaree Adaulut.-

The Court having maturely weighed the proceedings held before the Judge on Circuit the letters of the Provincial Law Officer and the letters of the Cazee-ul-Cozat and Mooftee of the Zoujdaree Adaulut confirms the said letters of the Cazee-ul-Cozat and Mooftee aforesaid and order the sentence of Hijrut declared in the letters aforesaid to be passed on the prisoner

Both Guilty

25th April 1818.

27th April 1818.

"Bodasoody surnamed"

to suffer death by being hanged at the usual time and place of execution.

[Sent following letter N.15

Read letter, dated the 24th inst. from the Acting Third Judge on Circuit in the Southern Division, referring his proceedings in case N.10 Combacorroo calendar 1st Sessions of 1818.

[Here enter N.210]

The Court having maturely weighed the proceedings held before the Acting Third Judge on Circuit the sentence of the Provincial Law Officer and the sentence of the Cazee-ool-Coujat and Mooftee of the Toujdaree Adaulut confirm the said sentence of the Cazee-ool-Coujat and Mooftee aforesaid and order the sentence of Kiffaus declared in the sentence adjudge the prisoner.

"Joffery Padarjachee"

to suffer death by being hanged at the usual time and place of execution.

[Sent following letter N.15

Read letter, dated the 21st inst. from the Second Judge on Circuit for the Eastern Division referring his proceedings in case N.26 of Bullung calendar 1st Sessions of 1818.

[Here enter N.218]

The Court having maturely weighed the proceedings held before the Judge on Circuit the sentence of the Provincial Law Officer & the sentence of the Cazee-ool-Coujat and Mooftee of the Toujdaree Adaulut confirm the said sentence of the Cazee-ool-Coujat and Mooftee aforesaid and accordingly direct that the prisoner

"Dawjeegaeeda"

"Nauqueefeuro"

to suffer death by being hanged at the usual time and place of execution.

Read letter, dated the 24th inst. from the Acting Third Judge on Circuit in the Southern Division referring his proceedings in case N.5 Tombacorroo calendar 1st Sessions of 1818.

[Here enter N.225]

25.

27th April 1818.

Records Letter, dated the 30th ...
from the Second Judge on Circuit in the Cen...
-sions - referring his proceedings in case No. ...
Calendar - 1st Sessions of 1818.

[Here enter No. 222]

The Court having maturely ...
-ed the proceedings held before the Judge on ...
the Sentence of the Provincial Law Officers and ...
Sentence of the Cazee. ode. Coryat and Mosaffat ...
the Toujdaree Adalaut confirm the said Sentence ...
of the Cazee. ode. Coryat and Mosaffat aforesaid ...
under the provisions of clause fifth Section IV. ...
XV. of 1803. adjudge the prisoner ...

Records

to be imprisoned - and transported to Prince of ...
Island, there to be imprisoned and kept to hard ...
labour in iron in the public roads or other pu...
works for and during the period of his natural ...
life.

Records Letter, dated the 30th ...
from the Second Judge on Circuit in the Cen...
-sions - referring his proceedings in case No. ...

Gov

2. 7.16.

27th April 1818.

Jury Calendar - 1st Sessions of 1818.

[Here enter No. 219]

The Court having maturely weighed ...
the proceedings held before the Judge on Circuit ...
the Sentence of the Provincial Law Officers and the ...
Sentence of the Cazee. ode. Coryat and Mosaffat of ...
the Toujdaree Adalaut confirm the said Sentence ...
of the Cazee. ode. Coryat and Mosaffat aforesaid, and ...
under the provisions of clause first Section IV. ...
Regulation XV. of 1803. adjudge the prisoner ...

"Meerbegaudoo"

to suffer death by being hanged at the usual time ...
and place of execution.

[Sent following Letter G 5]

The Records of the proceedings ...
held before the Court of Circuit in the three pre-...
-ceding numbers of the Bellary Calendar are ...
not accompanied by the proceedings of the ...
several police Officers by whom the prisoners ...
in those cases would appear to have been ...
forwarded to the criminal Judge -

Referring to the above circumstance, ...
the Court resolve to direct the attention of ...
the Second Judge of the Court of Circuit in ...
the

the Centre Division, to the circular instructions of
30th July last wherein it was observed that
the absence of the proceedings, either of the
Magistrate or Police Officer on the commit-
ment, the Courts of Circuit and of Gaol Delivery
must have a very limited view of the merits
of each case, and that it was therefore especially
enjoined, in order to the effectual administration
of Criminal Justice, that the proceedings of the
Magistrate or of the Police Officer should
carefully form part of the Record of the
evidence required to be delivered to the Judge
of the Court of Circuit under Section XX
Section X. of 1816.

It is the spirit of these instructions
evidently requires that the proceedings either
of the Magistrate or Police Officer should also form
part of the Record of the proceedings on all cases
which may be referred for the final sentence of
the Court of Gaol Delivery.

Ordered that extract of this part
may be sent to the Circuit Judge of the Court of
Circuit on the Centre Division, for his information
and future guidance.

Sent following letter D.[illegible]

Read

27th April 1818

Read letter, dated the 15th instant,
from the Acting Criminal Judge in the Zillah
of Dacca Jelalpore, with reports prescribed by
Section XXXV Regulation X. of 1816.

[Here enter No. 267.]

On the observations of remarks on
Nos. 47, 48 and 49 of the Report of persons appre-
hended in the Zillah of Dacca Jelalpore it is
stated that the persons accused have been released
and that the prosecutor has been sentenced
to pay a fine of twenty Rupees or to be
imprisoned twenty days.

The sentence passed by the
Acting Criminal Judge on the Zillah of
Dacca Jelalpore on the prosecutor in that case
is not warranted by the Regulations, which
only provide for the punishment of persons who
may prefer litigious, vexatious or groundless
complaints in the petty cases specified in
Sections XXXII and XXXIII Regulation IX. of 1816.
It is to be presumed, indeed, that under the
provisions enquiry required to be made by
the Magistrate or by a Police Officer, groundless
charges will seldom be brought before a
Criminal Judge, and it is desired to remark
that,

27th April 1818.

that, in all cases of false and malicious accusations where the act charged may be of a doubtful nature, the degree of punishment prescribed in the above Regulations could not have any proportion to the deep malignity of the offence.

Ordered that extract of these proceedings be sent to the Acting Criminal Judge in the zillah of Dacca Jelalpore, for his information and future guidance.

Sent following letter No 15

Read letter, dated the 13th from the Criminal Judge in the zillah of Cuddapah with report prescribed by Section XXXV Regulation X of 1816 entered No 260

In No 4 of the Report of persons apprehended in the zillah of Cuddapah it is stated that the Prisoners were apprehended on the 17th November 1817 and that they reached the zillah Court on the 10th January 1818 from the Tillah Amildar.

The Court desire that the Amildar be commanded by the Magistrate to explain the cause of this delay and that he attend be called to Fourth Section XXVII Regulation XI of 1816 which requires that prisoners shall be forwarded

27th April 1818.

forwarded within forty eight hours if possible to the Criminal Judge of the zillah.

It is stated in No 2 of the Report that the date of the Tallook Apprehension is the 16th December 1817 and that the prisoners reached the zillah Court on the 16th January 1818 from the Assistant Magistrate.

Referring to the above remark the Court desire that the Criminal Judge will state whether the Prisoners in this case were brought in the first instance before the Assistant Magistrate or before a District Police Officer.

In No 15 a delay of three weeks; in No 28 a delay of one month, and in No 31 a delay of nearly three months would appear to have taken place before the Prisoners reached the zillah Court from the Assistant Magistrate of the zillah. And in the column of remarks on No 31 of the Report it is stated "that no complaint appeared; that there were no documents concerning the case, and that as the Prisoner had been conducted in custody from the Purlowendalee Tallook to Cuddapah, there had followed the Magistrate to Nossum and had there been returned to Cuddapah, this journey of more

that in all cases of false and malicious accusations where the act charged may be of a heinous nature, the degree of punishment prescribed by the above Regulations could not bear any proportion to the deep criminality of the offence.

Ordered that extract of these proceedings be sent to the Acting Criminal Judge in the Gilles & Dependencies, for his information and future guidance.

Sent following letter R/S

Read letter, dated the 13th from the Criminal Judge in the Gilles & Galley with report prescribed by Section XXXV Regulation XI 1816 under No. 260

In No. 4 of the Report of persons apprehended in the Gilles & Candlesticks it is stated that the Prisoners were apprehended on the 17th November 1817 and that they reached the Gilles Court on the 10th January 1818 from the Islands Swildens.

The Court direct that the Assistant be commended by the Magistrate to explain the cause of this delay and that his attention be called to Fourth Section XXVII Regulation XI 1816 which required that prisoners shall be forwarded

27th April 1818.

forwarded within forty eight hours if possible to the Criminal Judge of the Gilles.

It is stated in No. 8 of the Report that the date of the Block deposition is the 16th December 1817 and that the prisoners reached the Gilles Court on the 16th January 1818 from the Assistant Magistrates.

Referring to the above remark the Court desire that the Criminal Judge will state whether the Prisoners in this case were brought in the first instance before the Assistant Magistrate or before a District Police Officer.

In No. 15 a delay of three weeks, in No. 28 a delay of one month, and in No. 31 a delay of nearly three months would appear to have taken place before the Prisoners reached the Gilles Court from the Assistant Magistrate of the Gilles, and in the Column of remarks on No. 31 of the Report it is stated "that no complaints appeared, that there were no documents concerning the case, and that as the Prisoner had been conducted in custody from the Pedro and Block to Candlestick, thence had followed the Magistrate to Nassau and back thence been returned to Candlestick, this journey of more

27th April 1818.

than 131 Miles was deemed sufficient and he was ordered to be released.

The Court direct that the Superintendant Magistrate will forthwith transmit the names of the persons in the three last enumerated cases, and report to the circumstances mentioned in Sect. 31 of the Regulation, the Court direct that the attention of the Superintendant Magistrate be particularly called to the provisions of Section XXIV Regulation IX of 1816 which provides that whenever a prisoner may be brought before the Superintendant Magistrate he shall enquire into the circumstances of the charge, and that, after the prisoner shall appear that there is no evidence to support the prisoner having been concerned in the offence of the act laid to his charge, the Superintendant Magistrate shall cause him to be forthwith discharged.

Ordered that a Copy of this proceedings be sent to the Criminal Judge in the Zillah of Cuttack for his information and guidance; and that he be desired to communicate to the Superintendant Magistrate and Assistant Superintendant of the Zillah such parts of this proceedings as concern those officers respectively for their information and guidance.

Read the following letter from the

27th April 1818.

Read letter, dated the 16th instant, from the Second Judge on circuit in the Northern Division — ordering petitions from the Servants of the Court of Circuit praying that the Officers may be allowed a Month instead of Fortnight in consequence of the prevalence of the Cholera at the latter place.

/Vide order No. 262/

The Court order of the 20th instant rescinded — ordering communication on the subject of the foregoing petitions.

Read letter, dated the 15th instant from the Criminal Judge in the Zillah of Chungulpoot — with list of prisoners under sentence of transportation.

/Vide order No. 265/

Read letter, dated the 16th instant, from the third Judge of the Court of Circuit in the Western Division, to the Court of Sudder Dewanny Adawlut of the 18th ultimo — ordering communication to the Magistrate of Midnapore of certain part of the proceedings of the Court addressed to the Third Judge under that date.

/Vide order No. 268/

Read the following letters from the

27th April 1818. the Criminal Judges of the zillas of Vizagapatam, Chingleput, Tanjore, Tirunelveli, Bellary, Rajahmundry, Ganjam, and Masulipatam, with Reports prescribed by Section XXXVI Regulation X. of 1816.

Also the Reports Nos. 243, 244, 251, 252, 261, 264, 266 and 268.

Read the following letters from the Criminal Judges of the zillas of Chingleput and Rajahmundry, with Reports prescribed by Section XXXVI Regulation X. of 1816.

Also Reports Nos. 246 and 265.

EOS

M

GW

J. A.

At a Court of the Zoujdaree Udalut

Present

Thursday 30th April 1818

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges

Read letter, dated 17th instant, from the Provincial Court in the Northern Division, Enclosing Copy of letter from Mr. Jones regarding the expense of a Lunatic Hospital and recommending that the charges proposed by him be sanctioned.—

EOS

M

GW

/Here enter No. 270/

The estimated monthly expense on account of the Establishment for the Lunatic Hospital at Masulipatam, exclusive of House Rent, amounts to Pagodas 76. 18. 60.—

In issuing circular instructions on the 26th March 1817 regarding the establishment of these institutions the Court directed that the Establishments in the Northern, Southern and Centre Divisions should be regulated on a scale similar to that which had been submitted by the Provincial Court in the Western Division.—

An accurate Statement has since been forwarded by that Court prepared according to the outline before referred to, which shews the estimated monthly expense, including the charge to be incurred on account

30th April 1818.

account of the subsistence of the patients, to Amount to about Star Pagodas 27. 6. 34.—

The Court direct therefore that extract from the Return of the Western Court be sent to the Provincial Court in the Northern Division in order that the scale on which the above statement was framed may be adopted by the latter Court or that reasons may be assigned for any modification which may by them be considered to be necessary in preparing their Statement of the Establishment for the Lunatic Hospital at Masulipatam.—

Ordered that extract of these proceedings be sent to the Provincial Court in the Northern Division for their information and guidance.—

RA. /Sent following letter A/ S

At a Court of the Tanjore Adalut

Thursday 7th May, 1818.

Present

Andrew Scott, Esqr. } Judges.
George Stratton Esqr. }

Read letter, dated the 1st Instt. from the Second Judge on Circuit in the Northern Division, - referring his proceedings and order No. 5 of the Register or Calendar 1st Sessions of 1818 /Vide order No. 232./

The Court having maturely weighed the proceedings held before the Judge on Circuit the Jurors of the Provincial Law Officers and the Jurors of the Zaguerode Cozgat and Masters of the Tanjore Adalut confirm the said Jurors of the Zaguerode Cozgat and Masters aforesaid and accordingly direct that the Prisoners.

1st Veeravenkatapa and

2d Mahomed Nabee.

be released at liberty.

/Sent following letter No. 7.

In the future selection has been delivered in this case, the Law officers of the Toujdary Adalut observe that the Prosecutor stated, in the first instance, before the Court of Circuit "that on "the first Prisoner were found a Silver Carnpoora Dee, "and that [illegible] in the course "of the very same declaration, "that no property "was found upon the first Prisoner." The words recorded by the Law Officers on the future present a faithful transcript of this part of the Persian translation of the record; but, according to the English translation of the proceedings on appeal, the Prosecutor is represented to have stated that the property was found "on the (second) "Prisoner Abdool Nabee" which renders the declaration of the Prosecutor perfectly clear and consistent.

Had this been the only variation noticed by the Law Officers, it would have been the duty of the Court to return the record for correction; but as the Court have, on the ground of the other contradictions and inconsistencies pointed out in the future proceedings on the Prisoners a sentence of acquittal, they consider it

7th May 1818. sufficient to bring the foregoing deposit on the record to the notice of the Second Judge, in order that he may exercise particular care in revising such records of trials as he may refer, from time to time, for the final sentence of the Toujdaree Adalut.

Ordered that extract of these proceedings be sent to the Second Judge of Circuit in the Northern Division, for his information and future guidance.

Sent following letter N.S.

N

R.A.

Seeneewasah

F. U.

At a Court of the Fouzdaree Udalut

Present

Monday
18th May 1818.

Andrew Scott Esqre
George Stratton Esqre } Judges

Read letter, dated the 9th Ultimo, from the 1st Judge on Circuit in the Western Division, referring Case No 5 South Malabar Calendar 1st Sessions A.D. 1818.—

(Here enter No. 242)

The Cazee-ool-Coozat and Mooftee of the Fouzdaree Udalut declare in the foregoing Futwa that the prisoner is convicted, on strong presumption, of the crime of murder laid to his charge— The Court, therefore, concurring in the opinion declared in the futwa, resolve, under the provisions of Clause third Section II Regulation X of 1803, to call upon their Law Officers to declare by a second futwa to what specific punishment the Prisoner would have been liable under the Mohummudan law if he had been convicted by full legal evidence.—

Ordered that extract of these proceedings be translated and delivered to the

Cazee-ool-Coozat

Cazee = ool = Coozat and Mooftees of the Court

Read letter, dated the 23d. Ultimo, from the 2d Judge on Circuit in the Southern Division, submitting Case Rel Trichinopoly Calendar 2d. Quarter Sessions AD 1818

/Vide enter Pt. 275/

The Court having maturely weighed the proceedings held before the Judge on Circuit, futwa of the Zilla Mooftee and the futwa of the Cazee = ool = Coozat and Mooftees of the Fouzdaree Uzalut confirm the said futwa of the Cazee = ool = Coozat and Mooftees aforesaid and accordingly direct that the Prisoner

"Sunnasy Veerapen"
alias
"Veerapen Sunnasy"

be set at liberty.—

/Sent following letter/

Referring to the observation made by the Law Officer of the Fouzdaree Uzalut in the latter part of their futwa "that it does not appear from the proceedings in this Case that a warrant for the apprehension of the prisoner had been issued by any competent authority," the Court deem it their duty to notice the utter silence of the Regulations

as to the circumstances under which orders were issued by the Collector in 1810 for the apprehension of the Prisoner.

It is to be collected from certain parts of the Record that a public order had been issued by the Magistrate in that year to the Police officers for the apprehension of the Prisoner, but the exact nature of this order is not specified in any part of the proceedings, and it no where appears in evidence that a proclamation was issued under the provisions of Regulation XII of 1809.— Looking, indeed, to the evidence before the Court, it certainly does not appear that the persons whom the Prisoner is charged with having recruited had any authority whatever to take him into custody.—

With regard to the point at issue between the Judge of Circuit and the Magistrate of Trichinopoly, the Court of Fouzdaree Uzalut consider it necessary only to remark that, whenever a Magistrate may forward to the Criminal Judge a person apprehended under the provisions of the latter part of Section XIII Regulation IX of 1816, it is incumbent upon the

the Magistrate to shew, in the proceedings which accompany the Prisoner, the grounds, whether of a report from a Police Officer or of other credible information, on which he deemed it expedient to issue process for the apprehension of such prisoner.—

In closing their Remarks on this trial the Court have to observe to the Second Judge of the Court of Circuit that, in calling upon the Zilla Mooftee to declare, by a second Futwa, to what punishment the Prisoner would have been liable supposing certain witnesses for the prosecution had not been servants of the Sirkar he exercised a discretion not vested in him by the Regulations; since the exception taken by the Zilla Law Officer is not warranted by the provision of any Regulation at present in force.—

Had the Judge seen cause to disapprove of the opinion declared in the Futwa, it was competent to him to suspend passing Sentence and to transmit the proceedings &c. on the Case for the final sentence of the Foujdaree Udalut.—

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Southern Division by Precept desiring

J. H.
18th May 1818.

securing him to communicate to the Magistrate of the Zilla of Trichinopoly such part of these proceedings as concerns that Officer for his information and future guidance.—

/Sent following Precept B/

Read letter, dated the 18th ultimo. from the 1st Judge on Circuit in the Western Division,— submitting trial No. 7 South Malabar Calendar 1st Sessions A.D. 1818.—

/Here enter No. 269/

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Cozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid and accordingly direct that the Prisoners

1st "Kanaken Koleuen Kooty"

and 2d "Najaddy"

be released on producing security for their future good behaviour and appearance when required for and during the period of twelve Calendar Months.—

/Sent following letter C/

The

The Rule of Law under which the
evidence of the first and second Witnesses for the
Prosecution is declared by the Law officers of the
Courts of Circuit and Foujdaree Udalut not
to be admissible, is not modified by the provis
of any Regulation at present in force, and it
was not competent, therefore, to the First Judge
on Circuit to require the Provincial Law offic
to declare what would have been the Future
against the Prisoners in this Case supposing
the witnesses in question had not been slave

This declared in the concluding
Section of Regulation I of 1818, under the provis
of which Regulation the exception here taken
by the Mohummudan law officers would be
liable to be overruled by the Foujdaree Udalut
that the penal Clauses of that Regulation
shall not be held in force until six months
from the date of its promulgation. The Cour
of Foujdaree Udalut have therefore confirmed
the Sentence of acquittal declared in the Futwa
but have deemed it necessary, in consideration
of all the Circumstances of the Case, to desire
that they be called upon to give security prior
to

to their enlargement.—

Ordered that extract of these
proceedings be sent to the First Judge
on Circuit in the Western Division for
his information and Guidance.—

R.T. /Sent following letter D/

In a Court of the Foujdaree Udalut

Present

Thursday 21st May 1818. Andrew Scott Esqre } Judges.
George Stratton Esqre }

Read again letter, dated 9th Ultimo from the 1st Judge on Circuit in the Western Division, - referring Case No. 5 South Malabar Calendar 1st Sessions of 1818.

/Here enter No. 242/

Read second Futwa delivered in this Case by the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut

/Here enter/

the Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the Futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and, under the sentence of Kysaas declared in the Futwa, adjudge the Prisoner,

"Vittoowan of Mate Itty Koren"

to suffer death by being hanged at the usual time and place of execution. -

/Sent following letter A/

Among

Among the papers sent into the Criminal Judge in the Case by the acting Serishtadar of Chenghaut Kootnaad talook is a representation from Ramen Menon, the Parbutty of Kayekepaad Hobely, wherein the Parbutty states that he proceeded in person to the place where the body of the deceased was discovered and that the Prisoner, Itty Koren, confessed before him (the Parbutty) that he had perpetrated the murder. — It appears, however, from the evidence of the witnesses for the Prosecution that it was not the Parbutty but the Parbutty's man, Koolatoo Parangodasha Menon, who proceeded to the spot for the purpose of investigating the Circumstances of the Case, and this fact is further established by the deposition before the Court of Circuit of the said Parangodasha Menon who states that he was deputed by the Parbutty "who could not see the Corpse of the "deceased in consequence of Dikska ceremony of the "deceased Father. —

The Court direct, therefore, that the above circumstance be brought to the notice of the Magistrate of Malabar, in order that he may convey to the Parbutty, Ramen Menon, an admonition on the marked impropriety of his conduct in the instance here referred to. —

Ordered that extract of these proceedings be sent to the 1st Judge on Circuit by Precept desiring him to communicate the same to the Magistrate in the Zilla of Malabar for his information and guidance. —

(Sent following Precept B)

Read letter, dated the 28th Ultimo from the 2d Judge on Circuit in the Northern Division, — submitting trial of 6 persons Vezaga patam Calendar 1st Sessions A.D. 1818. —

(Here enter No. 284)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Fouzdaree Adalut confirming the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and, under the provisions of Clause First, Section IV Regulation XV of 1803, adjudge the Prisoners
1st "Padala Joghee"
and 2d "Moogoolee Movaliah"
to suffer death by being hanged at the usual time and

and place of execution. —

/ Sent following letter C /

It appears, from the Record of the Proceedings held in this Case, that the two Prisoners were apprehended by Boochy Caumanah, the Renter of "Gooshery &c"; that the second Prisoner, who was secured on the first instance, was immediately forwarded from Cheepoorepilly to Vizianagarum, but that the First Prisoner, who was subsequently apprehended, was not forwarded to Vizianagarum until a declaration had been taken from him by the Renter above-mentioned; that, on their arrival at Vizianagarum, they were delivered into the charge of the Police Ameen of Cheepoorpilly who was at that time at Vizianagarum; that a confession was then obtained from the second Prisoner under a promise of release by the Police Ameen, which the declaration which had been made before the Renter, by the first Prisoner, was attested by the signature of the Ameen; and that they were afterwards forwarded by the Police Ameen to the Criminal Judge of the Zilla. —

The first observation which the Court

F. C.

21st May 1818.

Court have to make on the proceeding here detailed respects the incompetency of the Renter, Boochy Caumanah, to exercise any authority as an Officer of Police. — The Court are unable to collect from the Record of the trial whether the Police Ameen of Cheepoorpilly possesses the power of a Head of Village or that of a District Police Officer; but it is obvious that, according to the spirit of the provisions of Regulation XI of 1816, it is the duty of the Head of the Village of Cheepoorpilly, during the absence of the Ameen, to apprehend all persons charged with committing Crimes and to forward them, the accusers and witnesses, without receiving any confession from the accused, not to the Police Ameen of Cheepoorpilly, whose jurisdiction, it is to be presumed, does not extend beyond the limits of that place, but to the Police Officer of the District. —

The other observation which the Court deem it necessary to make on the proceeding in question relates to the conduct of the Police Ameen who would appear to have held forth a delusive hope for the purpose of obtaining

obtaining a confession from the second Prisoner and to have attempted to give authenticity to the declaration made by the first Prisoner before the Renter of Goosbery by attesting it with his official signature. In the former of these matters the Ameen has manifested a disregard of the Court's orders of the 18th June last and in the latter he has been guilty of a dereliction of duty such as renders him peculiarly deserving of censure.—

It will be the duty of the Magistrate of Vizagapatam to communicate to the Renter of Goosbery and to the Head Inhabitant of the Villages of Cheepoorpilly the remarks contained in this part of their proceedings; and particularly to caution the Police Ameen of Cheepoorpilly as to his future conduct in the discharge of the duties of his Office.

Ordered that extract of these proceedings be sent to second Judge on Circuit in the Northern Division by Precept desiring him to communicate the same to the Magistrate in the Zilla of Vizagapatam for his information and guidance.

/Sent following Precept D/

Read again letter, dated the 2d March

from the Magistrate in the Zilla of Vizagapatam, forwarding under clause Sixth Section XVIII Regulation IX of 1816, copy of his proceedings in a case of resistance of Process.—

/Here enter Ac 187/

Referring to the orders issued to the Magistrate of Vizagapatam on the 16th of March last, the Court of Foujdaree Udalut direct that the Magistrate be by Precept commanded to send up the English translations of his proceedings in a case of resistance of process within ten days from the date of the receipt of the Precept.—

/Sent following Precept E/

R.S.

M

W

Seeresta

25.

F. C.

At a Court of the Foujdaree Adalut

Present,

Thursday 9th May 1818.

Andrew Scott Esqre. } Judges.
George Stratton Esqre. }

Read letter, dated the 6th instant, from the 1st Judge on Circuit in the Western Division, submitting case No. 8 South Malabar Calendar 1st Sessions A.D. 1818.

/Here enter No. 293./

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee-ool Coozat and Mooftees aforesaid and, under the discretion allowed by the sentence of Bohoobut, do judge the Prisoner,

"Tattan Maurer"

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of three years, and then released.

/Sent following letter &/

Read

Read letter, dated the 4th instant, f
the 2d Judge of Circuit in the Northern Divisio
submitting case No. 5 Vizagapatam Calendar
Sessions A.D. 1817.—

/Here enter No. 294.—/

The Court having maturely consi
the proceedings held before the Judge on Circuit th
festwas of the Provincial Law Officer and the fu
of the Cazee ool Cozat and Mooftees of the Fouj
Adalut confirm the said festwas of the Cazees
Cozat and Mooftees aforesaid and, under the
latitude given by the sentence of Sahookar,
adjudge the Prisoner—

"Catacum Mottialoo"

to be imprisoned and transported to Prince of
Wales's island, there to be imprisoned and kept
to hard labor in irons on the public roads
other public works for and during the per
of his natural life.—

Sent following letter

/Here enter B./

One of the witnesses for the Prosecut
named Wottah Patayah, stated in the course of
his examination before the Magistrate of Vizagapat
that after he had apprehended the Prisoner Mottiala
he caused a letter to be written by the Naidoos of
Caulumrangepettah to the Sayer Jamadar of Guzza
=petty Nagarem who, saying that it did not concern
him, would not afford the assistance of a single pea
and on his subsequent examination before the Court
of Circuit this witness deposed that he applied to
the Guzzapetty Nagarem Jamadar for assistance
and on his saying that he had nothing to do
with it, he /the witness/ proceeded to Jamevaram
where he succeeded in obtaining assistance.—

The Court infer from the tenour
of the foregoing statements that the Sayer Jamadar
here referred to is vested, as a Native Revenue
Servant employed in the collection of the Customs
of Government, with police authority under
Section XXXVIII Regulation XI of 1816; and if
this inference be correct, it will be the duty of
the Magistrate particularly to explain to him
that he is enjoined under the Regulations to

contribute

contribute his assistance at all times in order to
the apprehension of offenders and to promote the
general security of the country.-

Ordered that extract of these
proceedings be sent to the Second Judge on Circuit
in the Northern Division by precept desiring
him to communicate the same to the Magistrate
in the Zilla of Vizagapatam for his information
and guidance.-

Sent following Precept

/Here enter C./

Read letter dated the 25th inst. from the Court of
from the 3d Judge of Circuit in the Western
Division,- submitting with observations final
second Supplemental Calendar Zilla North Malabar
for Quarterly Sessions A.D. 1818.-

/Here enter No. 282.-/

The Court having maturely
considered the Proceedings held before the
Judge of Circuit, the futwa of the Principal
Law Officer and the futwa of the Cazee
Cozzat and Mooftees of the Foujdaree Adawlut
confirm the said futwas of the Cazee and

J. U.

28th May 1818.

and Mooftees aforesaid and accordingly direct
that the prisoners

1st "Poodiaporail Ibray"
2d "Kohan Apen"
3d "Mootary Umar Cooty" and
4th "Velan Koyamoo."-

be set at liberty.-

Sent following letter.

/Here enter D./

Among the documents delivered
in this Case by the Criminal Judge in the Zilla
of North Malabar to the Court of Quarterly
Sessions is an order from the Criminal Judge to
the Sarishtadar of the Cherical talook desiring
him to explain the cause of the delay in sending
up the Prisoners to the Zilla Court. It appears,
however, on reference to the copy of the Police
Officer's report which is entered on the record
of the proceedings that the above communication
/which, it should be remarked, ought to have been
made through the Magistrate of the Zilla/ did
not take place until the lapse of a Month
subsequent to the day on which the Police

Officer's

Officer's report is acknowledged to have been
received by the Criminal Judge - No cause other
is assigned for this long interval of silence,"
Court regret to observe, that, in addition to the
particular instance here noticed, other causes
and apparently unnecessary delays occur in
bringing the accused to trial.-

The tendency of such delays
impede the ends of public justice is sufficiently
apparent; and the Court trust therefore that
only necessary to bring them to the notice
Criminal Judge in the Zilla of Sou
in order to ensure greater vigilance being
in the discharge of the duties of his office.

In making return, on the
last, to a Precept of the Judge of Circuit the
Criminal Judge having observed, in the
instance, that certain examinations which
been taken before the Criminal Judge, ha
to have been read over and signed by the
in the presence of the Assistant Criminal
proceeds to remark "that he [the Criminal
"has no reason to doubt this statement

"press of business requires it, he occasionally
"employs the Assistant Criminal Judge in duties
"of this nature under directions which, he has
"reason to be assured, have always been attended
"to, that the utmost circumspection and care should
"be observed."

The Court consider the practice
mentioned in the foregoing passage to be liable
to serious objections, and when regard is had to
the references which it must be necessary to make
to the Criminal Judge whenever explanations
may be found to be required, the Court do not
consider it to be calculated to
transaction of public business. They direct,
therefore, that the practice in question be
immediately discontinued, and that in future
all examinations taken before the Criminal
Judge be read over and signed by the Deponents
in his presence, and be attested by his signature

On that part of the Record of the
Proceedings which relates to the Conduct of the
Zilla Court Servant, Sachos Menon, the Court
of Enquiry Adalut forbear to make any

remark

remark, as they conclude that the several sum-
charges of malversation which have been brought
forward against him are undergoing investigation
before the Judges of the Court of Circuit.-

Ordered that extract of these
proceedings be sent to the Third Judge of the
Court of Circuit by Precept desiring him to
communicate the same to the Criminal Judge
in the Zilla of North Malabar for his information
and future guidance.-

Sent following Precept

/Here enter 6./

Read letter, dated the 18th instant,
from the 1st Judge of the Court of Circuit in the
Northern Division,- with a copy of Masulipatam
Calendar 2d Quarterly Sessions A.D. 1818.-

/Here enter No. 305./

In the Column of remarks on
case No 1 of the foregoing Calendar it is stated
that the Prisoner was declared by the Futwa
of the Provincial Law Officer to be liable to
Coshoobat on the ground that he had at first
acknowledged his guilt, but on his trial retracted

The

J. C.

28th May 1818.

The Court of Sujdaree Udalut desire
to have before them a copy of the Futwa delivered
in the above case and accordingly direct that the
First Judge of the Court of Circuit in the Northern
Division be by Precept commanded to send up
a copy of the Futwa delivered in case No 1 of the
Masulipatam Calendar for the Second Quarterly
Sessions of 1818 within five days from the date
of the receipt of the precept.-

Sent following Precept

/Here enter J. P./

R. H.

W

Sanctioned

At a Court of the Fouydaree Adalut-

Present,

Monday
8th June 1818.

Andrew Scott Esqre.
George Stratton Esqre. } Judges.-

Read letter, dated the 20th ultimo,
from the Acting Third Judge on Circuit in
the Southern Division,- forwarding copy of
correspondence with the Criminal Judge of
Tinnevelly and of Medical certificate regarding
the state of mind of a prisoner confined on
account of derangement.-

/Here enter No. 315./

It appearing from the fore-
-going communication that the Prisoner,
Amyoorbangum, may in the opinion of
the Acting Judge on Circuit as well as
of the Local Judicial authority at
Tinnevelly be released from confinement
without danger to the community, the Court
of Fouydaree Adalut authorize and direct the
Criminal Judge in the Zilla of Tinnevelly
to

At a Court of the Foujdaree Adalut-

Present,

Monday
8th June 1818.

Andrew Scott Esqre.
George Stratton Esqre. } Judges.-

Read letter, dated the 26th ultimo,
from the acting Third Judge on Circuit in
the Southern Division,- forwarding copy of
correspondence with the Criminal Judge of
Tinnevelly and of Medical certificate regarding
the state of mind of a prisoner confined on
account of derangement.-

Here entered No. 515.

It appearing from the fore-
going communication that the Prisoner,
Amyoanbangum, may in the opinion of
the acting Judge on Circuit as well as
of the local Judicial authority at
Tinnevelly be released from confinement
without danger to the community, the Court
of Foujdaree Adalut authorize and direct the
Criminal Judge in the Zilla of Tinnevelly
to

8th June 1818.

to call before him the friends of the Prisoner and to deliver him into their charge with a caution as to the necessity of keeping a watchful eye over his future conduct.

Ordered that extract of these proceedings be sent to the Acting Third Judge on Circuit in the Southern Division to be by him communicated to the Criminal Judge in the Zilla of Jinnevelly for his information and guidance.-

Sent following letter

/Here enter A/

Read letter dated the 13th instant, from 1st Judge on Circuit in the Northern Division, submitting case No. 8 Masulipatam Calendar 2d Quarterly Sessions A.D. 1818.-

/Here enter No. 206./

The Court having maturely considered the proceedings held before the Judge of Circuit the futwas of the Provincial Law Officer and the futwas of the Cazee ool Cozat and Mooftee of the Foujdaree Adalut confirm the said

8th June 1818.

futwas of the Cazee ool Cozat and Mooftee aforesaid and accordingly direct that the Prisoners.

1st "Poopala Goorvapah"

2d "Munyala Soobiah" and

3d "Patoopoolayto Luggiah"

be set at liberty.-

Sent following letter

/Here enter B./

In the letter which accompanies the record of the proceedings held in this case the First Judge of the Court of Circuit remarks that the statement given by the witness Veerama as to the time of the commission of the act with which the Prisoners are charged corresponds with that given by the Prosecutrix.-

This observation does not seem to be strictly borne out by the record of the trial; since it is distinctly stated by the witness Veerama, in her deposition before the Court of Circuit, as noticed by the Law Officers

of

of the Zoujdaree Udalut in the fatwa which they have delivered in the case, that the prisoner seized the Prosecutrix two gurries before morning, whereas the prosecutrix declares in her charge before the Court of Circuit that the occurrence took place before the expiration of the first watch of the night. It is true, indeed, that the Prosecutrix had previously declared, before the Criminal Judge, that the act had been committed about three O'clock in the morning; and when this discrepancy was brought to her notice by the Judge presiding at the trial, she simply stated that "it was at 3 O'clock in the morning" without giving any explanation of the cause of these variations in her representation of the circumstances of the case. The obvious tendency of such opposite statements, unaccompanied by any explanation, is to attach a character of suspicion to the whole body of the evidence.

The Court of Zoujdaree Udalut have also to remark that the record exhibits a

8th June 1818.

very imperfect and unsatisfactory report respecting the proceedings of the Police.

The Prosecutrix states that the was carried in the first instance to the Zemindar at Vyla varam who sent her to the Police Peshkar of the Division. The Court do not collect from the Record whether the Zemindar here referred to has or has not received a Sunnud to act as an Officer of Police under Section XXXIX Regulation XI of 816; but the reference to the Peshkar was, under any circumstances, altogether irregular, since it is competent only to the Head local officer of Police, by whatever name designated, and not to the Peshkar to perform the duties prescribed in Section XXVII Regulation XI of 1816.

It appears from the above statement of the Prosecutrix, as well as from the rest of the evidence in the case, that the several depositions purporting to have been taken at the Police station were taken before the

8th June 1818.

the Peishkar of Police.- None of these depositions, however, are attested by the signature of any Police Officer, nor is there any thing whatever on the face of these depositions to shew that they were taken, before any constituted authority.-

The Court direct that extract of these Proceedings be forwarded to the First Judge of the Court of Circuit by Precept desiring him to communicate to the Magistrate in the Zilla of Masulipatam such part of the same as relates to the proceedings of the Police, in order that the necessary steps may be taken by that officer to prevent the recurrence of similar irregularities.-

Sent following Precept.-

/Here enter 6./

Read again letter dated the 7th April. from the 3d Judge on Circuit in the Western Division,- submitting Trial No. 1. Third Supplemental Calendar Zilla North Malabar 1st Quarterly Sessions A.D. 1818.-

/Here enter No. 288./

8th June 1818.

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalat confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and acquitting the Prisoners

1st "Cheredey"

2d "Aman Nambiar"

3d "Kanadden Amanden" and

4th "Kanadden Ryroo."

direct that they be released accordingly.-

Sent following letter

/Here enter D./

The Court remark that of the several depositions purporting to have been taken before the Police Officer of the Cotiote taluk not one is attested by the signature of that Police Officer, and consequently that there is nothing on the face of these depositions to shew that they were taken before any regularly constituted authority.-

It was stated, moreover, by the

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the witness, Kanote Cannen, before the Court of Circuit that he did not hear the Prisoner dictate their declarations, but that, on being called by the Zilook Serishtadar after the examination, he attested the declarations as witness without having heard them, read over, and that he was not certain, therefore, regarding their contents.-

The Court direct that the above circumstances be brought to the notice of the Cotiote Police Officer by the Magistrate of Malabar, and that the attention of the said Police Officer be particularly directed to the words of Clause Third, Section XXVII. Regulation XI of 1816, which declare that, in all cases of confession, the District Police Officer shall "cause the same to be reduced to "writing and signed or marked by the "Prisoner in the presence of two or more "respectable persons not being servants of the Government.-

Ordered that extract of these proceedings be sent to the Third Judge of the

Court

3/ 7 W.

8th June 1818.

Court of Circuit in the Western Division by Precept desiring him to communicate the same to the Magistrate in the Zilla of Malabar for his information and guidance.-

Sent following Precept

Here enter C/ex

R.A.

C W

J. U.

At a Court of the Foujdaree Udalut

Present

Monday 15th June 1818. Andrew Scott Esqre. Edward Croft Greenway Esqre. George Stratton Esqre. } Judges

Read return, dated the 3d. instant from the 1st. Judge of the Court of Circuit in the Northern Division, — to the Court's precept dated 28th. Ultimo calling for the Futwa of the Law Officer of the Provincial Court in Case No 1 Masulipatam Calendar 2d. Quarterly Sessions A.D 1818.

M

L W

/Here enter No. 326/

Read again letter, dated the 18th. Ultimo, from the 1st. Judge of the Court of Circuit in the Northern Division, — With Copy of Masulipatam Calendar 2d. Quarterly Sessions A.D 1818. —

/Here enter No. 305/ —

The grounds upon which the Prisoner is declared, in the futwa delivered in the foregoing Case, to be liable to Askoobut appearing to the Court to be weak and unsatisfactory, the

Court

15. June 1818.

Court of Foujdaree Udalut deem it necessary to have before them the record of the proceedings which have been held in the case.—

It is ordered, therefore, that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Northern Division by Precept desiring him to send up English and Persian translations of the proceedings as sets before him in Case No 1 of the Maduliper Calendar 2d. Quarterly Sessions of 1818 within three weeks from the date of the receipt of the Precept.—

/Sent following Precept A/

Read return, dated the 8th instant, from the 3d. Judge of the Court of Circuit in the Centre Division,—to the Court's precept dated 16th April directing him to take evidence as to the insanity of the prisoner in Case No 17 Chittoor Calendar 2d. Quarterly Sessions AD 1818.—

/Here enter No. 329/

Read again letter, dated the 9th April from the 3d. Judge on Circuit in the Centre Division forwarding papers connected with the Case of a deranged prisoner.—

/Here enter No. 239/

15. June 1818.

It appearing, from the evidence which has been taken touching the state of the Prisoner's mind, that he is subject to dangerous attacks of insanity the Court direct that the Criminal Judge in the Zilla of Chittoor be commanded to confine the Prisoner Sheik Mudar in such place and manner as may be consistent with a due regard to the public safety and on no account to release him without the permission of the Foujdaree Udalut, to whom the Criminal Judge will from time to time report the state of the Prisoner's mind through the Judges of the Court of Circuit.—

Ordered that extract of these proceedings be sent to the Third Judge of the Court of Circuit in the Centre Division by Precept desiring him to communicate the same to the Criminal Judge in the Zilla of Chittoor for his information and guidance.—

/Sent following Precept B/

R.A.

F. U.

At a Court of the Foujdaree Udalut

Present

Wednesday
24th June 1818

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges.
George Stratton Esqre.

Read letter, dated the 8th instant,
from the 2d Judge on Circuit in the Northern Divn.
with copy of Ganjam Calendar 1st Sessions of 1818.

/Here enter No. 339/

It is stated in the Column of
Remarks on Case No. 2 of the foregoing Calendar
that the trial has been unavoidably postponed
on account of the ill health of the Prosecutor.
The absence of a Prosecutor, it is the duty of the
Court to remark, is not of itself a sufficient
ground for the postponement of a Criminal
trial. Section XVIII Regulation VII of 1802
applies only to "witnesses" whose evidence may
be considered to be material to the issue of a
case, and in all instances where a Prosecutor may
be prevented from attending before the Court of
Circuit it is competent to and incumbent upon
the Criminal Judge, with a view to avoid delays
detrimental

detrimental to the ends of justice, to empower the Government Vakeel to conduct the prosecution on the part of the Serkar.—

The Court desire to have before them the proceedings held in case No. 8 of the Calendar, wherein the Prisoner, who was charged with "selling a musket to a man in the service "of Mahartah, knowing at the time the said "Mahartah to be in rebellion against the "Honorable Company," has been sentenced under Aokoobut, to three year's imprisonment and hard labour in irons.—

The Court of Foujdaree Udalut trust that the second Judge has pointed out to the acting Magistrate of Ganjam, for the information and guidance of that officer, the irregularity of the proceedings of the police in Case No. 10 of the Calendar, as noticed by the Judge in the Column of Remarks on that Number.

The only remaining point which appears to call for observation from the Foujdaree Udalut relates to the proceeding of the second Judge in Case No. 11 of the Calendar wherein eight of the Prisoners, who were charged with gang

gang Robbery were declared by the Provincial Law Officer to be liable to "Aokoobut," the specific penalty of "Hudd" being barred by a scrupulous distinction.— The crime for which these prisoners were declared to be liable to discretionary punishment has been specially provided for by a subsisting Regulation, by pronouncing the penalty to be adjudged on proof of the commission of such crime; and it was competent, therefore, to the second Judge to pass sentence on the prisoners under a sentence of Aokoobut without calling upon the Law Officer for a second futwa which is only declared to be necessary in cases where the crime of which the prisoner is convicted may not have been specially provided for by any subsisting Regulation.—

Ordered that extract of these proceedings be sent to the second Judge on Circuit in the Northern Division, by Precept requiring him to communicate the former part of these proceedings to the Assistant Criminal Judge in the Zilla of Ganjam for his information and future guidance, and further requiring him to

24. 24th June 1818.

to send up English and Persian translations of the proceedings held before him in Case N.o 8 of the Ganjam Calendar 1.st Sessions of 1818 within three weeks from the date of the Receipt of the Precipt.—

K.A. / Sent following Precept A/S

685

G.C.

J. C.

At a Court of the Foujdaree Adalut.

Present,

Thursday 25th June 1818. Andrew Scott Esq.re
Edward Croft Greenway Esq.re } Judges.
Georges Stratton Esq.re

Read letter, dated the 28th Ultimo, from the 2.d Judge on Circuit in the Northern Division, submitting Case N.o 3. Vizagapatam Calendar 1.st Sessions A.D. 1818.—

/Here enter N.o 320./.

The Court having maturely considered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officers and the futwa of the Cazee ool Cozat and Mooftees of the Foujdaree Adalut confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid and, under the provisions of Clause Sixth, Section II Regulation XV of 1806, direct that the Prisoner

Chettroocherlah Veerabadraraze

be released on producing security for his future good behaviour and appearance when

when required.-

/Sent following letter A./

Read letter dated the 5th Instant,
from the 1st Judge on Circuit in the Western Division
Transmitting warrant issued for the execution of the
sentence passed by the Foujdaree Adalut on prisoner
case No. 5 South Malabar Calendar 1st Sessions
A.D 1818. which is certified to have been carried
into effect.-

M. Rich. /Here enter No. 342./

At a Court of the Foujdaree Adalut.-

Present,

Friday
10th July 1818.

Andrew Scott. Esqre
Edward Croft Greenway Esqre } Judges.-

Read again letter, dated the 2d March.

M from the Magistrate in the Zilla of Vizagapatam
V.S forwarding under clause Sixth Section XVIII
Regulation IX of 1816, copy of his proceedings
in a case of resistance of Process.-

/Here enter No. 187./

Read also letter, dated the 6th ultimo
from the Magistrate in the Zilla of Vizagapatam
forwarding English translates of certain
Telougoo papers transmitted by him under
date 2d March 1818.-

/Here enter No. 331./

Read also return, dated 8th ultimo
from the Magistrate in the Zilla of Vizagapatam
to precept dated 21st ultimo commanding
him to transmit English Translates of
his

his proceedings in a case of resistance of process.—

/Here enter No. 334./

Read again letter, dated the 2d March from the Secretary to Government in the Judicial Department, desiring that the proceedings of the Magistrate of Vizagapatam, which have led to the attachment of the Zemindaries of Boobely and Sungummulah may be taken into consideration at as early a period as practicable and be submitted with the Proceedings of the Court for the consideration of the Governor in Council; ~~and directing that the Court will determine whether this application, to which the Collector objects on the ground that the attachment of the Zemindaries of Boobely and Sungummulah has been taken off, can be entertained, and if so, whether the Magistrate~~ ~~has proceeded~~.—

Here enter No. 228.—

The Court of Sudder Adawlut proceed to take into consideration the

papers here submitted by the Magistrate of Vizagapatam respecting a charge of resistance of Criminal process.

The case appears to be in substance as follows; on the 25th September 1817, the Magistrate read several Arzees which had been forwarded to him by Peddavah Nippencoodoo Zemindar of Sungummulah, by his brother, Currenah Nippencoodoo, by Gungoo, the wife of the Zemindar and by the Police Ameen of Sungummulah, and as the statements made in these petitions appeared to be opposite and recriminatory the Magistrate appointed one Lutchemputty, Tyer Tanadar of Vizagapatam, to be "Commissioner" with authority to take evidence on oath regarding certain murders alleged in the foregoing Arzees to have been committed at Sungummulah. The Magistrate's order empowering Lutchemputty to act as Commissioner was accompanied by an advertisement requiring all persons to obey the said Commissioner on pain of being proceeded against under Regulation IX. of 1816.—

On

10th July 1818.

On the 2d of October follow
a petition was presented to the Magistra
the Vakeel of Currenah N Pencoodoo, ch
Enungunty Sectaramiah Dewan of Bob
with having sent certain other perso
therein enumerated who, on the 15th of Sept
plundered his house and carried off his
Seetiah; and on the same day another pet
was presented to the Magistrate by the Pa
J Peddanah N Pencoodoo, charging
his former wife, Currenah N Pencoodo
Boochanah and others with having on
15th of September surrounded his & N Pencoo
house and killed and wounded certain
his people. These Argees are stated to hav
been delivered by the Vakeels in person at
and they were referred by the Magistra
to the Commissioners Lutchempatty for
investigation and report.

The reports of the Commissio
on the several matters which had been ref
to him by the Magistrate were received
the office of the Magistrate on the 22d October
and

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and 11th November 1817, and on the latter date process was issued by the Magistrate, on the grounds of the depositions sent up by the Commissioner, requiring E. Sectaramiah to appear on the 25th November to answer to the charge preferred against him and requiring P. Nipencoodoo to appear on the same day "to stand an investigation in the case No. 212" which ~~he was performed before~~ the Magistrate. The process issued in each case is represented to have been in the form of a "summons", but it appears, on reference to the copies of the orders in question, that they were drawn up in the form of warrants and addressed to the Police Ameem of the town of Vizagapatam who was commanded to produce the persons above mentioned, on the day specified.

On the 26th of November return was made that E. Sectaramiah was unable to appear inasmuch as he had been suffering for twenty days from an attack of "fever and gout". The peon, however, who had been deputed to serve the process deposed that he was not

sick

sick and was again directed to appear before
the Magistrate within five days or a warrant
would be sent. On the same day a
return was made that P. Nipemcoodos was
confined to his house by sickness but that he
had sent an authorized agent to appear on his
behalf. P. Nipemcoodos was also commanded
to appear, in person, within five days or a warrant would be sent.

Return was again made on the 10th of December that E. Seetaramiah was sick and unable to appear before the Magistrate by reason of sickness and a warrant was issued by the Magistrate on that day for his immediate apprehension. Return was also made that P. Nipemcoodos was unable to appear as the peon who had been deputed to serve the process stated, on his examination before the Magistrate, that "the Gentleman was watching at the gate said that P. Nipemcoodos was sick and had sent an authorized person to appear on his behalf." A warrant was issued by the Magistrate for his immediate apprehension.

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On the 22d of December return was made that E. Seetaramiah repeated his plea of sickness and refused to appear in obedience to the warrant and this was corroborated by the depositions, on oath, of the two peons who had been deputed to apprehend him. A second warrant was issued by the Magistrate on the same day for the apprehension of E. Seetaramiah and a Military force was called in to enforce the execution of the process.

The warrant which had been issued against P. Nipemcoodos was returned on the 31st December with an endorsement on it shewing that he had represented to the Police Peons his inability to appear before the Magistrate unless they would remain until his recovery. The warrant was sent back by the Magistrate to the Police Ameen of Sungumcullah who was commanded to apprehend P. Nipemcoodos and if necessary to write to Captain Wight for assistance.

On the 2nd of January 1818 the Police

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Police Ameen of Vizagapatam reported to the Magistrate the return of the two Police Peons who had been deputed to serve the warrant of the 22d December on E. Seetaramiah, and the Ameen was directed to take "declarations "from those peons upon oath respecting the "circumstances which took place at Bobbily "after they carried the warrant, and to deliver "to the Magistrate on next Court day as he has "no time to take them himself." The depositions of the Peons so taken before the Police Ameen of Vizagapatam were read and recorded by the Magistrate on the 9th of January on which day a warrant was issued to the Iyer Tahsildar of Bobbily directing him to apprehend Roydapah Rungarow, Zemindar of Bobbily, or if that should not be practicable, to cause a proclamation to be publicly read under Clause First Section XVIII Regulation IX. of 1816, requiring the said Zemindar to appear to answer to the charge of resistance of process on or before the 15th of February ensuing.

3/ 7.11.

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ensuing. Similar proclamations were ordered to be published against E. Seetaramiah and P. Nippencoodoo, the Zemindar of Sungumvoulsah; and, on the 16th of February, as the parties had not appeared in obedience to process, the Magistrate declared the lands of the Zemindars of Sungumvoulsah and Nippencoodoo to be forfeited to Government and left the punishment of E. Seetaramiah, who did not appear to be possessed of landed property, to the discretion of the Foujdaree Adalut.

On a consideration of the proceedings held in this case it appears that against Roydapah Rungarow, the Zemindar of Bobbily, there are only the depositions of two police peons taken on oath before the Ameen of Vizagapatam which are of no validity whatever; that the charge of resistance of process preferred against Peddanah Nippencoodoo, Zemindar of Sungumvoulsah is not supported by a tittle of evidence; but that against E. Cunnaguty Seetaramiah there are the depositions of two peons taken on oath before

before the Magistrate of Vizagapatam wherein it is sworn that he refused to accompany the Peons who were charged with the execution of the warrant. Independently, however, of the fact that Ennaguntty Sectaramiah still persisted in his plea of ill. health, the goodness or weakness of which plea the Magistrate had not taken the proper means to ascertain, it appears, on reference to the copy of the Magistrate's warrant which forms No. 18 of the appendix to the Magistrate's proceedings, that the process issued against Ennaguntty Sectaramiah was in every respect irregular, the warrant being for the apprehension of E. Sectaramiah "on the ground of the depositions forwarded by Lutchemputty, "Commissioner of Sungummulah," and otherwise differing very materially from the form prescribed in the appendix of Regulation IX of 1816.

The Court, therefore, having maturely weighed all the circumstances in evidence before them, set aside the judgment passed by

by the Magistrate of Vizagapatam on

Boydapah Rungarow, Zemindar of Bookelly

Peddanah Nepuneedoo Zemindar of

Sungummulah and

Ennaguntty Sectaramiah Dewan of the Zemindar of Bookelly;

and direct, under section XIX Regulation IX of 1816, that the attachment be removed from the lands of the Zemindars of Bookelly and Sungummulah and that a full and fair account be rendered of all receipts and disbursements during the period of attachment.

The Court of Sudder Adawlut having passed judgment on the case here referred for their determination, deem it their duty to point out to the Magistrate of Vizagapatam some very remarkable irregularities which appear on the face of his proceedings.

The first point deserving the notice of the Court is the appointment of Lutchemputty to take evidence on oath in the manner specified in the Magistrate's proceedings

proceedings of the 25th September 1817.- Section XIV Regulation IX of 1816 which the Magistrate refers provides for a previous inquiry by means of Local Police Officers or otherwise in cases where a Magistrate may see cause to distrust the truth of a complaint preferred in the manner pointed out in the preceding Section of that Regulation.- In the present instance, however, the only information before the Magistrate was that contained in certain petitions which had been forwarded to him at different times, and these were all referred by the Magistrate, without any previous endeavour on his part to ascertain the merits of the complaints, for the investigation and report of the Commissioner.- The power of taking evidence "on oath" which was delegated by the Magistrate to the Commissioner is a power which it was not competent to the latter to exercise under the subsisting Regulations; and on the advertisement published by the Magistrate the Court consider it necessary only to observe that it

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ought to enforce obedience to an unlaw
exercise of authority by denouncing against
all such as should fail to obey the Native
Commissioner the same penalties which ar
declared to be incurred by resistance to the
lawful process of the Magistrate.-

The Magistrate states, in his
proceedings of the 2d October, that the petition
Nos 211 and 212 of 1817, were "delivered by the
"Vakeels of the parties upon oath" and that
they were afterwards referred to the Commissio
Lutchemputty.- With regard to the complaint
so stated to have been delivered on oath,
the Court have to observe, in the first
place, that they do not seem to have been
attested by the signature of the Magistrate,
and, in the second place, that in calling upo
persons, who appeared only as the authorized
agents of their Constituents to swear to
the truth of the complaints which they were
severally instructed to prefer, the Magistrate
entirely misapprehended the rules enacted

for

for his guidance, which require that, in all such cases, the plaint to proceed by an authorized agent be corroborated by the oath of persons personally informed of the truth of the complaint.=

After the above observation it may be scarcely necessary to add that the Magistrate was quite unwarranted in issuing process of apprehension solely on the grounds of the depositions sent up to him by the Commissioner.- At the time that his process was to issue there was not, in point of fact, any information regularly before him, and that warrants should have been made out at one and the same instant for the apprehension of those who were to prefer and of those who were to answer to a Criminal charge is a circumstance hard to be reconciled with the ordinary forms of judicial process.

[illegible]

[illegible]

Magistrate conceive the reason assigned for the prosecutor's non-attendance to be altogether insufficient, it was open to him to defer issuing any process for the apprehension of the accused until the prosecutor should appear before him to depose to the truth of the complaint; but no part of Section XIII Regulation IX of 1816 can be regarded as authorizing the issue of the warrant specified in these proceedings, an alleged resistance to which eventually led to the attachment of the lands of the individual.-

With regard to the plea of sickness urged by Emaguntty Sastaramiah it is the duty of the Court to remark that

the

10th July 1818.

the simple misapprehension of the statement of the peon who had been deputed to execute the warrant that he "did not appear to be sickly," should not have been held sufficient to invalidate such plea and to preclude the necessity of obtaining more full and satisfactory evidence as to the point in question.— Of the declaration however, which was made by Peddanah Nippencoodoo the Magistrate does not seem to have considered it necessary to take any notice whatever, although the Regulations expressly declare that where the Complainant may be "unable to attend "in person" his attendance shall not be indispensable, but that his written plaint presented by an authorized agent and corroborated in the prescribed manner "shall be sufficient grounds for receiving "the complaint."—

The next point which calls for the remark of the Foujdaree Adalut is the order issued by the Magistrate of Vizagapatam

5/ 7 A

10th July 1818.

Vizagapatam on the 5th of January to the Police Ameen of the town to take the depositions on oath of the two police peons regarding the circumstances which had taken place at Boobely" and to deliver "them to the Magistrate on the next Court "day as he had no time to take them "himself."— After the observations which have been recorded in the former part of these proceedings on the conduct of the Magistrate in respect to the appointment it is not necessary that the Court should dwell on this place on the incompetency of the Police Ameen of Vizagapatam to exercise the power with which he was thus entrusted by the Magistrate; but the attention of the Court has been particularly excited by that passage in the order which contains the grounds of the Magistrate's proceedings. The Magistrate assigns, as a reason for empowering a Native Officer

of

of Police to take declarations on oath, that "he had no time to take them himself," thus making a want of leisure for the due performance of the important duties of his office a colour for entrusting his subordinate Officers with illegal authority.— If, as is to be collected from the words here quoted, avocations of another nature impeded the prompt and efficient discharge of his functions as a Magistrate it was incumbent upon him to represent to Government the necessity of additional aid in the exercise of his judicial authority; but to make occupation in other matters an excuse for entrusting to the Native Officers of Police the execution of duties which it is competent to the Magistrate or to his Assistant only to perform is to ~~allow~~ a practice subversive of the due administration of an important branch of Public justice and fraught with consequences dangerous to the interests of the community.—

The

The only circumstance which remains to be noticed by the Court as connected with the case immediately before them is the order given by the Magistrate to the Dyer Tanadar of Boobely to whom he entrusted the warrant for the apprehension of Boydapah Rungaroo, to seize the accused if practicable ~~and~~ ~~if~~ ~~not~~ at "to date the proclamation and "to publish it &c." The Police Officer should have been instructed to endeavour to apprehend Rungaroo and, in the event of its being impracticable so to do, to report the same to the Magistrate, with whom it would have remained to issue a proclamation in the mode prescribed in the Regulations; but to leave to a Native Officer of Police the power of filling up the blanks in a proclamation which fixed a specific day for the appearance of the accused, was obviously improper.— The Court observe that the proclamation ~~is~~ stated the 6th of January,

the

10th July 1818

the very day on which the order was issued in the first instance for the apprehension of Raydapah Rungarow.-

The Court have now considered their observations on the case submitted by the Magistrate for their final determination but there appears, on the face of the Magistrate's proceedings in this case another instance of inattention to the plain provisions of the Regulations which calls for the immediate interference and orders of the Court.- A warrant was issued by the Magistrate on the 11th of November 1817. on the ground of "the depositions sent up by the Commissioner "Lutchemputty," for the apprehension of ten persons accused in case No 211. of 1817. among whom was one D Narapah who, according to the endorsement on the warrant, "promised "that he would come within four days" but did not appear at the time appointed; and a proclamation was issued on the 7th December by the Magistrate who had not taken any depositions

6/ J.C.

10th July 1818

depositions on oath as to the fact of the alleged resistance, requiring D. Narapah to appear on or before the 2d of January. This person was produced by the Police Ameen of Vizagapatam on the 30th December on whom the Magistrate ordered him to pay a fine of fifty Rupees "for not attending "before the Magistrate according to his "warrant;" and the amount of this fine was realized by the sale of part of his property on the 21st of January following.

The first observation which arises on the above proceeding is that the warrant which was issued for the apprehension of D. Narapah appears to have been altogether informal and that the grounds on which it was issued were weak and insufficient.- It is observable, in the next place, that it was the duty of the Police Ameen to whom the warrant was addressed to apprehend and produce the said Narapah according to

10th July 1818.

to the expres terms of the warrant without permitting him to defer for any, the shortest period, his appearance before the Magistrate. And the last remark which suggests itself is that the act of Narapah can only be regarded as an evasion of Criminal proces which would not subject him to the penalty imposed by the Magistrate. There is nothing whatever to shew that Narapah attempted to resist the proces of the Magistrate, and on his being produced by the Native Officer of Police on the 7th December it was the duty of the Magistrate simply to proceed on the charge which had been originally preferred against him, supposing such charge to have been preferred in the manner prescribed in the Regulations.-

The Court of Foujdaree Adalut direct, therefore, that such part of the Magistrate's order respecting Dⁿ Narapah as relates to the payment of a fine be set aside and that the amount realized from

10th July 1818.

from the sale of his property be repaid to him without delay

Ordered that extract of these proceedings be sent to the Magistrate of Vizagapatam for his information and guidance.- /Sent following letter A./

Ordered also, with reference to the letter from the Secretary to Government in the Judicial Department dated the 24th March last, that ~~a certified~~ extract of these proceedings, ~~be submitted~~ for information of the Right Honorable the Governor in Council.-

/Sent following letter B./

N
E/5

R.S.

At a Court of the Fouzdaree Udalut

Present

Saturday
11th July 1818

Andrew Scott Esqre. — } Judges
Edward Croft Greenway Esqre }

A1

It appearing from the preamble of Regulation V of 1818 that the Zilla Court of Guntoor is to be abolished on the 1st. day of August next ensuing and it being doubtful whether the Jail at Vellore can be delivered in time sufficient to admit of the arrival of the Court of Circuit at Guntoor in time to complete the Jail delivery at that Zilla prior to the date so fixed for the abolition of the Zilla Courts—

The Court of Fouzdaree Udalut direct that the attention of the Third Judge on Circuit in the Northern Division be called to the circumstance above mentioned, and resolve that, in the event of his not considering it to be possible to complete the business of the Circuit at Guntoor before the 1st. of August next ensuing he be authorized and directed under Section III Regulation VI of 1808 immediately to report

report the same to the Assistant Criminal Judge in charge of the Zilla Court of Guntoor in order that the prisoners committed or held to bail at the Zilla of Guntoor may be brought to trial at the Sessions of the Court of Circuit now about to be held in the Zilla of Nellore.—

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division to the Criminal Judge in the Zilla of Nellore & to the Assistant Criminal Judge in charge in the Zilla of Guntoor for their respective information and eventual guidance.—

/Sent following letter A/

Read letter, dated the 23d Ultimo from the Second Judge on Circuit in the Northern Division,— Certifying execution of warrant against the prisoner in Case No 6 Vizagapatam Calendar Sessions A.D 1818.—

AA

R. A. /Here enter No 349/

J. U

At a Court of the Foujdaree Udalut

Present

Monday 13th July 1818 — Andrew Scott Esqre ..... } Judges
Edward Croft Greenway Esqre ... }

Read letter, dated the 29th Ultimo,

AA from the 2d Judge on Circuit in the Northern Division,— forwarding certain original Precepts issued to the Magistrate of Guntoor respecting the irregular proceedings of Police Officers in his District with the returns made by that Officer the language of which the 2d Judge points out as reprehensible.—

/Here enter No 354/

From the papers which accompany the foregoing reference it appears that on the 30th April last a precept was issued by the second Judge on Circuit to the Magistrate in the Zilla of Guntoor commanding him to make known throughout his Zilla that it was not competent to the District police officers to delegate to their subordinate Servants the powers vested in them by the Regulations, and calling the attention of the Magistrate to the abuses which had been committed

of the 30th of April.- In making return to this precept on the 26th day of June following the Magistrate observed that "he would by no means have objected "to reread such part of his return dated the 15th "June 1818 as might have been construed by the "2d Judge as disrespectful did he not feel it incumbent "on him to refute the charge made against him "of Disobedience to Orders, which the Magistrate "defies the Judge or Circuit to prove." With regard to the provision introduced in Clause Fourth Section XXVII Regulation XI of 1816, the Magistrate remarked that "surely, the Judge on Circuit cannot "be ignorant, that Land Revenue Servants from "the nature of their employment are constantly "on the move, and cannot therefore carry into effect "the spirit of Regulations, unless their Peshkars "and Gomastahs have that authority which, it is "conceived, they possess, under Clause second "Section XXVI Regulation XI of 1816, that he would "wish to know whether, in case of sickness, when "absent on leave, or when on attendance on the Collector "or the Court, Peshkars may not act for their immediate Superiors, or whether a Prisoner is to be kept "in confinement until those obstacles to his examination cease

13th July 1818

"cease to operate; and with respect to the Conduct "of the Mungalagherry Darogah, which the "Second Judge had been pleased to term illegal "the Magistrate imagined it to be perfectly correct "as at the time his Muddutgaur acted for him, "he was employed on business of great importance "which would not admit of his attendance at "his station; What was therefore to be done? "Was his Muddutgaur to act or was business to "be at a stand?" The Magistrate then proceeded to detail his reasons for conceiving that the papers which accompanied his Return of the 5th of May had not been correctly explained "to the Second Judge" and concluded the return in the following manner -

"In obedience to the following Orders "of the 2d Judge, the papers which accompanied "his Precept are returned; Should the Magistrate "however wish it to remain as it is at present "he will make return to this precept in 24 "hours from its receipt, retransmitting the "accompanying papers."

"This Precept received ½ past 6 O Clock A. M. "Answered 20 Minutes and half past 11 O Clock A.M.

of

committed by the Officers of Police in regard to the detention of accused persons beyond the periods specified in Clause fourth Section XXVII Regulation XI of 1816.— To the above precept the Magistrate made return on the 5th of May that the necessary orders had been issued.—

It further appears that on the 8th of June an unsigned precept was issued by the second Judge to the Magistrate of Guntoor requiring him to submit a list of the several "Tahsildars &c. with their Divisions, whom he had "appointed to be Heads of police," and to issue a circular order directing all Heads of Police under his authority to subjoin to their proper names respectively the words "Head of Police of Division" To this Precept "supposed," as the Magistrate observed, "to have been received from Mr. Peter "Cherry" return was made on the 15th of June as follows viz.— that "Tahsildars (or Native "Collectors) of Districts, by whatever name designated "the Peishkars, Gomastahs and their peons are one and "all officers of police and are required to act in that "Capacity. The heads of Police in this District, are "the Darogahs, the Peshkars, Aumeens, and Misdutgars as

"as the case may be during the temporary absence "of the immediate superior Native officers— The "people holding the undermentioned situations— "have been told when they sign their names, to "add the words Heads of Police of Division "although the Magistrate is inclined to think "that not one of them will comprehend the meaning "of the expression as they are unacquainted with "the English Language—

Lastly, it appears that, on the 23d of June, a third precept was issued to the Magistrate of the Zilla of Guntoor by the second Judge on Circuit, in which the Second Judge after pointing out to the Magistrate the want of disrespect which pervaded the return to the Precept of the 8th of June and suggesting to him the propriety of withdrawing his return and following the course laid down in the precept required that, in the event of his not complying therewith, he should make return to the Precept within twenty four hours, when further orders would be issued by the Court of Circuit on the subject of the Magistrates return of the 15th June which, the Judge observed, was in opposition to the precept of

"of this 26th day of June A.D. 1818."

On the several Orders issued by the Second Judge on Circuit the Court consider it necessary only to observe that they are generally correct, the only inaccuracy into which he has fallen being his instruction to the Magistrate to forward a list of "Tahsildars" whom he had "appointed to be Heads of Police," whereas it is declared in Clause First Section XXV. Regulation XI of 1816 that Tahsildars "shall "ex-officio be heads of the Police of their respective "districts."

Having thus briefly remarked on the nature of the orders issued by the Second Judge on Circuit, the Court proceed to consider the mode in which the Magistrate made return to the Second Judge's precepts of the 8th and 23d of June respectively.

In the observations made by the Second Judge in his precept of the 23d of June, upon the manner in which the Magistrate notices his omission to sign the precept of the 8th of June preceding, the Court concur; and it is obvious that the course suggested by the Second Judge would

would have been much more proper and becoming than the petulant mode in which the Magistrate expresses his supposition as to the authority whence the precept had issued.- The inference drawn by the Magistrate that "because Peshkars Jemadars "and their peons are one and all officers of police" therefore "the Peshkars Aumeens and Mududgars "as the case may be, are the Heads of Police "in Districts during the temporary absence of "their immediate Superior native officers," is altogether fallacious; inasmuch as the powers vested in the "Head of the district police," properly so called, are limited to the Native Collector of a district who is declared to be ex-officio Head of the police of such district. With respect to the wrong construction put by the Magistrate upon the injunction issued by the Second Judge that Head Police officers should subjoin, to their proper names their official designations, the Court will only observe that they are willing to attribute to inattention and hasty perusal of the order, a remark which must, under other circumstances, have been at least pronounced to be extremely flippant and disrespectful.-

of

13th July 1818.

Of the first paragraph of the Magistrates return to the Precept of the 23d of the Court consider it to be their duty to express opinion that the language is very unbecoming a tone of defiance which it breathes in the highest insubordinate. — In the following passages of the Return the Magistrate not only repeats the the fallacy which has been already exposed but endeavours to make it appear that, unless his interpretation be received, a very important part of the Regulations must be considered as a dead letter. With reference to the general tenor of passages the Court of Foujdaree Adaulut remark that the several duties entrusted to the Head Police Officer of a District are of a nature not to be delegated to any inferior Officer of the police; that, in cases of emergency, when the Head Police Officer, strictly so called, may be prevented, by indisposition from performing the duties of his office, it will be necessary for the Magistrate to provide that a person be appointed to act as Tahsildar or native Collector, or of that office, as Head of the Police, a power which should always be exercised, however, with

F. 21.

13th July 1818

scrupulous caution, and that nothing whatever can be understood to authorize that general delegation of authority for which the Magistrate contends, and which, when it has been actually so delegated, has, within the knowledge of the Court, been followed by serious abuses such as may easily be supposed to arise when duties of such an important nature are reposed in the hands of ignorance and inexperience persons.—

In the intemperate and dogmatical manner in which the Magistrate has expressed his opinion respecting the Conduct of the Mungadagh Darogah to be diametrically opposite to that entertained by the second Judge the Magistrate appears to have forgotten the situation in which he stands in relation to the latter officer, and the Court of Foujdaree Adaulut are of opinion that the concluding passage of the return is written in a spirit, bordering upon ridicule, unworthy of the grave & important character of his office & which no plea of heedlessness or indiscretion can justify or excuse.—

The Court direct that the letter

Fr

1818.

13th July 1818.

from the Second Judge on Circuit be

with their sentiments on the Case for the

the Right Honble the Governor in Council

of Government under Clause Third Section

XL Regulation IX of 1816.—

Ordered that the foregoing

letter and enclosures, with extract of these p

be sent to the Secretary to Government

the Judicial Department for the purpo

before the Right Honourable the Governor

Council.—

R.S.

J. U.

At a Court of the Zoujdaree Udalut

Present,

Monday
20th July 1818 Andrew Scott Esqre. —
Edward Croft Greenway Esqre. } Judges.

Read return, dated the 7th instant,

At

Ellis from the 1st Judge of the Court of Circuit in
the Northern Division, — to precept dated 15th
Ultimo calling for record of Proceedings in
Case No. 1 Masulipatam Calendar 2nd Quarterly
Sessions A.D. 1818.
/Here enter No. 261./

The Court of Zoujdaree Udalut
direct, that the Futwa passed in the
foregoing case be referred for the consideration
and opinion of the Cazee ool Cozat and
Mooftees of the Court.—

R.S.

At a Court of the Zoujdaree Adalut.

Present:

Tuesday
27th July 1819

Andrew Scott Esqre
Edward Croft Greenaway Esqre } Judges.

Read again return, dated the 17th
M instant, from the 1st Judge of the Court of Circuit
GS in the Northern Division, to precept dated 15th
Ultimo calling for record of Proceedings in
Case No. 1 Masulipatam Calendar 2d Quarterly
Sessions A.D. 1819.-

/Here enter No. 361./

Read also remarks of the Cazee
-ool Cozat and Mooftees of the Court.-

/Here enter Question & answer/

The Court direct, that the
remarks of the Cazee ool Cozat and Mooftees
of the Zoujdaree Adalut be sent, accom-
-panied by an English translation, to the
First Judge of the Court of Circuit in the
Northern Division, in order that the First
Judge may communicate the same to
Busharut

Busharut Alee, the Mooftee of the Provincial Court, and enjoin him to pay attention to the remarks of the Law Officers of the Sudder Foujdaree Adaulut, to be more careful hereafter in specifying in each future case the grounds of the opinion, delivered in such future cases.

Ordered, that extract of this proceedings be sent to the First Judge of the Court of Circuit in the Northern Division for his information and guidance.

Sent following letter.

/Here enter A/

Read letter, dated the 15th Inst. from the 3d Judge on Circuit in the Northern Division, suggesting that the persons committed for trial at Guntoor be sent to Masulipatam rather than to Nellore.

/Here enter No. 380./

The Court of Foujdaree Adaulut resolve, on the recommendation of the third Judge on Circuit to direct that the persons who may have been committed or held to bail in the Zilla of Guntoor be brought to trial at Masulipatam. The Court accordingly authorize and direct the Assistant Criminal Judge in charge of the Zilla of Guntoor to send to Masulipatam the persons under commitment and to require such as are at large upon bail to repair to Masulipatam there to give bail to the Criminal Judge of that Zilla for their appearance before the Court of Circuit to be held at that Station. The Assistant Criminal Judge in the Zilla of Guntoor will also forward the proceedings which have been held in each case to the Criminal Judge at the Zilla of Masulipatam. And as it is essential to the ends of justice that these persons should be brought to trial with as little delay as possible the Court of Foujdaree Adaulut authorize and direct the Third Judge on Circuit in the Northern Division to hold a special Sessions of Jail delivery at Masulipatam for the trial of the several persons be ordered to be transferred

21st July 1818

transferred from the Zillas of Guntoor.

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division to the acting Criminal Judge in charge of the Zillas of Guntoor and to the Criminal Judge in the Zilla of Masulipatam for their information and guidance respectively.

Sent following letters

/Here enter B.C. 1 2./

J. W.

At a Court of the Foujdaree Udalut

Present

Tuesday 28th July 1818

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter, dated the 21st instant, from the Secretary to Government in the Judicial Department, - communicating the sentiments of the Right Honble the Governor in Council on the Proceedings of the Court of Foujdaree Udalut commenting on the returns made by the Magistrate of Guntoor to certain precepts issued to him by the 2d Judge on Circuit in the Northern Division.

Here enter No 394

The Court direct that copy of the foregoing letter be sent with extract from the Proceedings of the 13th Instant, to the Second Judge of the Court of Circuit in the Northern Division by Precept desiring him to communicate the same to the Magistrate in the Zilla of Guntoor for his information.

/Sent following Precept A/

Read

28th July 1818.

Read letter dated the 20th instant from the 1st Judge on Circuit in the Southern Division, — with Copy of Combaconum Calendar 2d Sessions A.D 1818.

/Here enter No. 391/

to be referred.

AH

J. U.

At a Court of the Foujdaree Adalut.

Present,

Friday 31st July 1818 — Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.

Read again petition presented by the Vakeel Vencatarama Sastry on behalf of Roydusspay Rungarow Bahadoor, — praying to be furnished with copy of the Court's letter to Mr. Smith the Magistrate of Vizagapatam concerning the petitioner.—

/Here enter Petition No. 6 of 1818/—

AH

E.C.S.

The Court direct that such part of their Proceedings of the 10th Instant, as relates to the removal of the attachment from the lands of Roydusspay Rungarow, Zumeendar of Boobely, be furnished to the Vakeel Vencatarama Sastry for the information of his Client.—

Read again petition presented by the Vakeel Vencatarama Sastry on behalf of Roydusspa Rungarow.—

/Here enter Petition No. 3 of 1819/

Requires no Order

Read

Read again petition presented by the Vakeel Vencatarama Sastry on behalf of C. Seetaramiah

/Here enter Petition No. 2 of 1818/

Requires no order.-

Read again petition presented by the Vakeel Vencatarama Sastry on behalf of Rayduppa Rungarow Zemindar of Boobely.-

/Here enter Petition No. 5 of 1818./

Read letter dated the 9th instant, from the 2d Judge on Circuit in the Northern Division,- submitting case No. 2 Rajahmundry Calendar 1st Sessions A.D. 1818.-

/Here enter No. 375./

The Court having maturely considered the Proceedings held before the Judge on Circuit the Futwas of the Provincial Law Officers and the Futwas of the Cazee ool Cozat and Mooftees of the Sowdaree Adalut confirm the said Futwas of the Cazee ool Cozat and Mooftees aforesaid

aforesaid and acquitting the Prisoner "Evatoory Parvateesem"-

direct that he be released accordingly.-

Sent 4th Augt.

Sent following letter

/Here enter A/

It appearing from the evidence recorded on these proceedings that the Prisoner Evatoory Parvateesem is labouring under serious mental derangement,-

The Court direct that the Criminal Judge in the Zilla of Rajahmundry be commanded to ascertain whether the friends of the Prisoner are able and willing to undertake such care of him as may prevent the possibility of his doing any mischief, and, in such case, to deliver him into their charge, and that in the event of any unwillingness, or inability on their part to receive charge of the Prisoner, the Criminal Judge be required to confine him in such place and manner, as, consistently with a regard to the public safety, shall to him appear expedient, until the arrangements now in progress relative to the establishment of

J. C.

At a Court of the Foujdaree Udalut.

Present.

Wednesday the 12th August 1818 — Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges

The last quarterly reports of Prisoners for Chittoor not having been received,

The Court direct that the Criminal Judge in the Zillah of Chittoor be by Precept commanded to send them up without further delay, and to explain the circumstances that may have occurred to prevent their having been despatched in conformity with the provisions of Section XXXV Regulation X of 1816.

Return to be made within five days from the date of the receipt of the precept.

Sent following Precept A/

Read letter, dated the 1st instant, from the 2d Judge on Circuit in the Northern Division, with copy of extract of the Rajahmundry Calendar

13. Ju

31st July 1818.

of a Lunatic Hospital at Masulipatam shall be finally carried into effect; when it will be the duty of the Criminal Judge to forward the Prisoner to the Criminal Judge in the Zilla of Masulipatam, in order to his being confined in the general hospital ordered to be established at the Sudr Station for the reception of Lunatic prisoners within the Division.-

Ordered that extract of these Proceedings be sent to the Second Judge on Circuit in the Northern Division by Precept ~~[illegible]~~ desiring him to communicate the same to the Criminal Judge in the Zilla of Rajahmundry, for his information and guidance

sent Precept

Sent following Precept
/Here enter B./

The reports prescribed by Section XXVII Regulation VII of 1802 not having been received from the Judges late on Circuit in the Northern Centre and Western Division,-

The Court direct that each of the several

J. U.

31st July 1818.

sent it.

several Judges late on Circuit in the three Divisions aforesaid be by Precept commanded to send up the prescribed report containing his observations made during the Circuit, within three weeks from the date of the receipt of the Precept.-

Sent following Precept.
/Here enter C./

R. A.

11
805

Mention

12th August 1818.

Calendar Tt. Sessions A.D. 1818.

/Here enter No. 415./

Read letter dated the 4th instant,
from the 1st Judge on Circuit in the Southern
Division, with copy of Verdict Bellum Calendar
Tt. Sessions A.D. 1818.

To be referred

EG
AH

R.A.

/Here enter No. 418./

Thursday
13th August 1818.

At a Court of the Inquisitorial Adelaet.

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

EG

Read again letter, dated the 20th ultimo,
from the first Judge on Circuit in the Southern
Division, with copy of Combaccarnee Calendar - 2d
Sessions of 1818.

/Here enter 391./

Read again letter, dated the
4th instant, from the First Judge on Circuit in the
Southern Division, with copy of Verdict Bellum
Calendar - 2d Sessions of 1818.

/Here enter No 418./

The proceedings held before the Judge
on Circuit in the cases, No 3. of the Combaccarnee
Calendar and No 2 of the Verdict Bellum Calen-
dar, which are to be referred to the Inquisitorial
Adelaet, not having been received;

The Court direct that the
Mentioned

1. 13th August 1818.

Mandate of the First Judge on Circuit to the Southern Division to direct to Sections XXXVI. Regulation VII of 1802 and that he be by Precept commanded to send up the Records of the proceedings held before him on the two cases abovementioned within fifteen days from the date of the receipt of the Precept

To be sent 14th

RA

/ Sent following Precept No 15

F. U.

cpd

At a Court of the Foujdaree Udalut

Present

Monday 17th August 1818

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges

Read letter dated the 8th instant

M from the 3d Judge on Circuit in the Northern Division submitting Case No 18 of Nellore Calendar 2d Sessions A.D. 1818.

EG

/ Here enter No 429 /

It appearing, from the papers which accompany the foregoing letter, that the Prisoner, Danasee Choogandoo, is capable of pleading to the arraignment and of answering for the offence with which he is charged, the Court of Foujdaree Udalut, having maturely weighed the circumstances of the case, consider it to be necessary, for the ends of justice, that the Prisoner should take his trial before the Court of Circuit.—

The Court deem it proper to bring to the notice of the Judge on Circuit the anomalous description of the offence with which the prisoner is charged, as recorded on these proceedings.— The charge is stated to be for the "crime of murder during a fit of insanity"— or, in other words, the prisoner is charged with having committed an act,

the

17th August 1818.

the very essence of which consists in the malignancy of the mind, while labouring under a deficiency of mind which would excuse him from the guilt & of course from the punishment of such act.-

Sent 17th

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division for his information and guidance.-

/Sent following letter A/

Read return, dated the 5th instant from the Second Judge of the Court of Circuit in the Northern Division, to the Court's precept of 28th Ultimo, ordering communication to the Magistrate of Guntoor of the proceedings of the Court and the from the Secretary to Government in the Judicial Department respecting certain returns made by that officer to the precepts of the 2d Judge on Circuit.-

/Here enter No. 425/

A

EHS

Exd Dft.

J. H.

At a Court of the Foujdaree Adaulut

Wednesday
19th August, 1818.

Present

Andrew Scott, Esquire
Edward Croft Greenway, Esquire } Judges.

Read letter, dated the 14th instant from the Magistrate and the Zillah of Combaconum requesting permission to offer a reward of Rupees 200. for the apprehension of two notorious robbers and Rupees 100. for that of four others who were transported to Goyaur and broke jail in January last.-

A

EHS

/Here enter No. 434/

It appearing that the six convicted felons, enumerated in the Magistrate's letter, are supposed to be residing without the limits of the Zillah of Combaconum

The Court of Foujdaree Adaulut authorize and direct the Magistrate in the Zillah of Combaconum to offer a reward of Two hundred & eight Rupees for the apprehension of each of the principals

Eadu Magan, and
Alpoo Vunnemoonden.

and

19th August 1818.

and one hundred Rupees for the apprehension of one of the inferior offenders.

Chinnaen,
Carooppen,
Sengalany Nadaru and
Thummookaen.

The Magistrate, on submitting his application to the Court, requests that he may be authorized to offer a reward of two hundred "Rupees for the apprehension of Kuda Mudiar "and Appoo Vanna Moondan / the principals / "and one hundred Rupees for that of the "four others"; but the Court conclude, with reference to the provisions of Section XXI Regulation IX of 1816, that he is desirous to offer two hundred Rupees for each of the principals and one hundred Rupees for each of the inferior offenders.

Ordered that extract of these proceedings be sent to the Magistrate in the gaol of Combaconum, for his information and guidance.

sent 20th

/ Sent following letter A /

Ordered also that extract of these proceedings be sent to the Civil Auditor, for his information.

sent 21st

/ Sent following letter B /

19th August 1818.

Read letter, dated the 12th instant, from the Third Judge on Circuit in the Northern Division, - forwarding copy of Nellore Calendar 2d Sessions of 1818 and stating his intention of setting out for Masulipatam.-

subscribed 3

/ Here enter No 436 /

The Court desiring to have before them copies of the Notices delivered in cases Nos 15 and 16 of the Nellore Calendar, wherein the prisoners have been sentenced, under a sentence of Cokoobut as not being "free from "suspicion", to imprisonment and hard labour and in irons for certain specified periods;

It is ordered that the Third Judge on Circuit in the Northern Division be by precept commanded to send up copies of the Notices delivered by the Provincial Law Officer in the two cases abovementioned within two days from the date of the receipt of the precept.

sent 20th

/ Sent following Precept C /

Read letter, dated the 7th inst. from the First Judge of the Court of Circuit in the Centre Division - with copy of Chittoor Calendar - 3rd & Quarterly Sessions

to be entered 11

13.

9th Augt 1818.

Sessions of 1818.

R A.

H

Ellis

Here enter No 422/5

xxxxxxx

copied L.

J. A.

At a Court of the Foujdaree Adalut.

Present,

Wednesday 26th August 1818. Andrew Scott Esqre. } Judges.
Edward Croft Greenway Esqre. }

Read return, dated the 7th instant,

H

4 from the 2d Judge late on Circuit in the Centre

Ellis Division, - to precept dated 3d ultimo - submitting,

in obedience thereto, the Report prescribed by

Section XXXVII Regulation VII of 1802.

[Here enters No 421.]

The Court proceed to record some

observations on certain passages in the above report

which appear to call for remark -

In detailing the several cases

which were brought before him in the Zilla of

Bellary the Second Judge remarks, with respect

to the prisoners in Case No. 15 of the Calendar,

that they were convicted by the Law Officer

and that he / the Second Judge / "considered

"the evidence against the prisoners who were

"acquitted in Nos. 13 and 14 to have been equally

"strong as in this case." - Again the Second Judge

remarks with reference to case No. 26 of the same

Calendar, that "the Prisoner was acquitted by

the

"the Law Officer on the grounds of there being no
"proof to the murder or to the confession of the
"Prisoner taking no notice whatever of the first
"five evidence against him."

If, as is to be inferred from the nature of these observations, the Second Judge of the Court of Circuit saw cause to disapprove the opinion of the Provincial Law Officer in the several cases here referred to, it was obviously his duty to refer the proceedings held on the trials for the final sentence of the Court of Foujdaree Adalut.

In commenting upon case № 2 of the Chingleput Calendar, the Second Judge observes that when the Provincial Law Officer delivered his Futwa he & the Second Judge pointed out to him a palpable error which he had committed in summing up the evidence and that, on the error being so pointed out, the Law Officer added a line to his original Futwa, pronouncing four out of the six prisoners whom he had acquitted indiscriminately in the first instance to be convicted on strong presumption of the crime laid to their charge.

The instance here noticed by the

the Second Judge manifested a degree of negligence on the part of the Law Officer in the discharge of his public duty, such as, in the opinion of the Court, rendered it incumbent upon the Judge to report his conduct to the Foujdaree Adalut under the provisions of Section XXII Regulation VII of 1802. and the Court accordingly deem it to be their duty to call for a full report of the case with a view to such further proceedings as may appear necessary to uphold the purity and vigilance of the Judicial administration in criminal matters.

The Second Judge observes at the conclusion of his remarks in Case № 2 of the Chittoor Calendar for the Third Quarterly Sessions of 1817, that he considers it expedient "that a repetition of secret theft or larceny should "render the offenders liable to an increased measure "of punishment, on the same principle that a "repetition of highway robbery on proof of "notorious bad character subjects offenders to "transportation under Clause Third Section IV "Regulation XV of 1803."

The principle which is recognized in the provision above quoted applies, in the

26. August 1818.

the opinion of the Court, by analogy of law, to the minor offences specified by the Second Judge, on a repetition of which offences, each as may appear to call for a more severe punishment than seven years imprisonment and hard labour, it is competent to a Judge of Circuit to refer his proceedings to the Sudder Fouzdaree Adalut under the provisions of Clause seventh Section II Regulation XVII of 1803.

The last observation which the Court has decided to make on the Second Judge's Abstract of cases respects his dissent from the Futwas of acquittal delivered by the law officers of the Fouzdaree Adalut in case No. 26 of the Bellary Calendar. The Second Judge observes that "he cannot concur in the "Prisoner's acquittal altogether or consider him less "culpable than the Prisoner in Case No. 20 of "the Cuddapah Calendar who, for throwing "a stone at the deceased which occasioned "his death, was pronounced guilty of manslaughter "by the Law Officers of the Fouzdaree Adalut "and sentenced" by the Court "to be imprisoned "for one year."

No. 7 A.

26th Augt 1818

Of the stricture here made by the Second Judge on the Futwas of the Law Officers of the Fouzdaree Adalut it is obvious to remark that it professes to be founded only on opinion, and that in questioning, on the ground of mere opinion, the correctness of a grave and deliberate act of the Higher Court, the Judge must be considered to have gratuitously overstepped the proper limits of his duty.—

To the abstract of cases contained in the report are annexed the general remarks of the Second Judge on the effect of the present system and on other matters. These remarks appear to embody much information of an interesting and important nature and the Court will now proceed to notice such parts of them as appear to require observation.—

Several instances of persons punished by the Assistant Magistrate of Bellary are enumerated by the Second Judge wherein the offence was theft to the extent of a hundred pagodas; or burglary; or cattle-stealing, none of which can be held to come within the description of "petty thefts" contemplated

contemplated in Section XXXIII Regulation IX of 1816.- This practice is contrasted by the Second Judge with that which has been found to prevail within the Zilla of Chittoor wherein several cases are stated to have been forwarded by the Assistant Magistrate to the Criminal Judge in which the amount of property stolen did not exceed a few fanams; and on the contradictory practices here noticed the Second Judge founds an opinion that some more defined exposition of the rule is required for the guidance of the Lower Courts, as also "that the Magistrates should be directed "careful that all complaints in cases of theft "state the value of the property stolen and insist "to insert the same in the petty Calendar."

The exercise, on the part of the Assistant Magistrate in the Zilla of Bellary of the extraordinary powers mentioned by the Second Judge can only be attributed to an utter disregard of the provisions enacted for his guidance, which plainly declare that the Judicial powers of the Magistrate, in such matters, are limited to petty thefts on the further express condition that such petty thefts

thefts "shall not have been attended with "any aggravating circumstances or committed "by persons of notorious bad characters." As the Calendars referred to by the Second Judge do not come before the Foujdaree Adalut, the Court have not the means of knowing whether similar mistakes have been committed by the Magistrates or their Assistants in other Zillas, but as it is the duty of the Foujdaree Adalut to watch with care over the administration of Criminal Justice in all its branches they consider it proper to issue circular instructions to the several Courts of Circuit desiring them to impress upon the Magistrates of the Zillas within their respective jurisdictions that the complaints for theft which they are authorized to hear and determine without reference to any authority, are complaints ~~where~~ preferred for thefts to an inconsiderable amount, which may not have been attended with any circumstances of aggravation or may not have been committed by persons of bad character.- The Court of Foujdaree Adalut also approve the suggestion of the second Judge

26th August 1818.

Judge with regard to the specification in all cases of the amount of property charged or proved to have been stolen, and they direct that the rule be observed accordingly.—

The Second Judge also states that the Calendar of commitments by the acting Criminal Judge of the Zilla of Chittoo for a certain specified quarter contained nearly twenty cases where the amount stolen fell short of two pagodas and several where it only amounted to a few fanams "he considering "it his duty to commit in all cases where "the Law Officer of the Zilla Court gives "it as his opinion that the offenders are "liable to amputation by the Mahomedan "Law."—

The references which would appear to have been made, as a general practice, by the late acting Criminal Judge in the Zillas of Chittoo to the Zilla Law Officer are nowhere authorized by the Regulations; and it is to be observed that they impose upon the Zilla Law Officer a duty which it is competent only to the Law Officers of the Courts of Circuit to exercise under

under the sanction of the oath prescribed in Section

26th Augt 1818 VIII Regulation VII of 1802.—

It is stated by the Second Judge that, under Section V Regulation IX of 1816, "the Collectors consider themselves authorized "to make over the whole of their Magisterial "duties to their Assistants and to depute them "to hold their office in any part of the "district they think proper," and the Second Judge records the grounds on which he considers such absolute delegation of power to be unauthorized by the Regulations.—

The view which the Second Judge has taken of the intent and import of the law in this respect appears to be perfectly correct. Assistants to the Zilla Magistrates are declared by Section VI Regulation IX of 1816 to be "authorized to "exercise the judicial powers vested in the "Magistrates as far as may be necessary to "enable them to perform the duties committed "to them respectively by the Magistrates with "whom they are stationed;" words which are employed in Clause First, Section V Regulation X of 1816 to express, mutatis mutandis, the powers

powers to be exercised by an Assistant Criminal Judge, who, from the nature of his duties, is permanently Stationed with the Criminal Judge.— The inference to be derived from a comparison of the above enactments derives considerable support from the provisions of Section XLI Regulation XI. of 1816 which expressly restrict the exercise of authority by an Assistant Magistrate, who may be deputed to any large and populous town, to the limits of such town; and, as the Second Judge observes, the intention of the Legislature is plain as still clearer light is thrown on the provisions of Section XV Regulation XII 1802, which have only undergone such alterations as have been made applicable to Criminal Judges and their Assistants.—

It becomes important on the Court of Foujdaree Adalut to correct the error into which the Magistrates appear to have fallen in regard to the delegation of authority to their Assistants, and it is possible that the Magistrates of the other Divisions may have also

in some instances, the same erroneous notions which appear to have prevailed so generally in the Centre Division, the Court of Foujdaree Adalut deem it expedient to enjoin the four Courts of Circuit particularly to explain to the Magistrates of the Zillas within their several jurisdictions that Section VI Regulation IX of 1816 contemplates the exercise by the Assistant Magistrates of such duties as may be committed to them by the Magistrates "with whom they are stationed;" that the authority delegated to Assistants, when he exercised only within the limits of such town and that no part of the Regulations can be construed to authorize a Magistrate to delegate to his Assistant a general power to exercise, without limitation or control, the whole of the duties of his Office.—

Towards the conclusion of the report the Second Judge expresses it to be his opinion that, if a stop were put to recording, and committing Prisoners upon, their confessions before the district

police

"Augus

26th August 1818.

police Officers, which may, he conceives,
be the consequence of the Courts Circular
orders of the 8th June 1817 "but very few
"offenders would be brought to punishme
"so long as the Courts continue to be guid
"by Mohummudan Law as interpreted b
our Law Officers, who evidently attach t
"greatest importance to confession and appe
"to consider it preferable to all other evi

The reasoning of the
Judge in the above passage appears to
Court to be grounded on a partial v
of the
orders and of the many
which have been brought to
the Court wherein confessions
obtained at the police stations by
promises or threats - a practice
which was known so widely to
that the Law Officers of the Court
always regarded with suspicion
coming from this quarter unless
by collateral evidence. The wid
from the undue importance thus
to confessions, of whatsoever

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J.A.

26th Augt 1818.

might be, was the more hurtful in its operation
in that the Police Officers, satisfied with
obtaining confessions generally considered
it unnecessary to take any direct evidence as
to the commission of an offence, and it may
admit of some question whether the large
proportion of cases in the Centre Division,
in which persons have been convicted upon
confessions, may not be regarded as a
natural consequence of this widely extended
practice. It was to check the growth of an
evil so detrimental to the ends of justice that
the Court of Foujdaree Adalut deemed it proper
to direct the attention of the Police Officers to
the several clauses of Section XXIII Regulation
XI of 1816, and to impress upon their minds that
it was their bounden duty to endeavour to
obtain, in the first instance, the depositions
of persons able to give evidence materials
to the case and afterwards to receive any
free and voluntary confessions which
might be made by the prisoner. The orders
of the Court, which were, in point of fact,
a comment on the provisions of the
Regulations, enjoined a course to be pursued

by

26. August 1818.

1817/18. by the Magistrate and Criminal Judge conjointly has been ——— 331.-

Ordered that extract of these proceedings be sent to the Second Judge of Circuit in the Centre Division for his information and guidance.-

(1) Sent following letter A/s

Ordered further that the Report and extract of these

(3) proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

Sent following letter B/s

Ordered also that extract from these proceedings be sent to the four Courts of Circuit by Precept desiring them

(2) to communicate the same to the Magistrates of the Zillas within their respective jurisdictions for their information and future guidance.-

AS R.A. Sent following Precept C/s

E.C.S

J. U.

Thursday
27th August 1818

At a Court of the Foujdaree Udalut

Present

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges

Read letter, dated the 15th instant,

ECS from the Criminal Judge in the Zilla of Combaconum,

AS submitting by desire of his Assistant copies of correspondence relative to certain proceedings of the latter.-

(Here enter No. 440)

It appears that, on the 9th of January last, the Magistrate in the Zilla of Combaconum addressed a letter to the Criminal Judge of the Zilla requesting that he would order his Assistant to discontinue the practice of corresponding direct with the Assistant Magistrate and to address any communications which he might have to make to the Head of the Department and not to any subordinate Officer, as also that he (the Criminal Judge) would direct his Assistant to specify in his letters that they were written by the desire of the Criminal Judge.- This letter was referred by the Criminal Judge for the perusal of his Assistant who addressed the

26th August 1818.

by the District Police Officers as preliminary to, not as conclusive of, the reception of "free and voluntary confessions," which are considered to be of peculiar importance, as well in the English as in the Mohummedan law, on the maxim that every man is to be regarded as the worst witness in favor of, and as the best possible witness against himself.

On this head it may not be irrelevant to cite the provision of Section X Regulation X of 1816 which requires Criminal Judges, notwithstanding confessions made before them, invariably to summon and bind over to attend at the next Sessions the witnesses to the Commission of the crime or misdemeanor alleged against the prisoner, that they may be examined before the Court of Circuit in the same manner as if the prisoners had denied the charge. The Criminal Judge is in this case the committing Officer, but it is obvious that he cannot discharge the duty required of him unless the witnesses be sent to him by the Police Officers.

On examining the statements annexed to the report to which the Second Judge adverts

adverts at the commencement of his general remarks it appears that, in the Zilla of Cuddapah, the number of persons punished in 1815/16 by the Magistrate as constituted under the Regulations of 1802 was ---- 230

and that the number punished in 1817/18 by the Magistrate and Criminal Judge conjointly has been ---- 136.

That in the Zilla of Bellary the number of persons punished by the Magistrate in 1815/16 was ---- 629.

and that the number punished in 1817/18 by the Magistrate and Criminal Judge conjointly has been ---- 287.

That in the Zilla of Chingleput the number of persons punished by the Magistrate in 1815/16 was ---- 906

and that the numbers punished in 1817/18 by the Magistrate and Criminal Judge conjointly has been ---- 340.

That in the Zilla of Chittoor the number of persons punished by the Magistrate in 1815/16 was ---- 527

and that the number punished in

the Criminal Judge at some length on the 15th of the same Month. stating, with reference to one part of the Magistrates letter, that in the case in which he (the Assistant Criminal Judge) had addressed the Assistant Magistrate, the omissions had so materially affected the performance of his duties that "he conceived he might have been fully justified by the Regulations "to have addressed the Magestrate without reference to "the Criminal Judge; but, from its being of general "import to both departments, that he had submitted "his letter (dated 31st December 1817) for the approbation and orders of the Criminal Judge." The Assistant Criminal Judge also stated, in explanation of his having communicated direct with the Assistant Magistrate, that he had so communicated "whenever "the Assistant Magistrate had been the Officer "transmitting Criminal cases" and not from any desire to assume an undue exercise of authority. — In answer to the above letter the Criminal Judge observed to his Assistant on the same day that "although he had "his (the Criminal Judge's) authority to address the "letter alluded to, that authority was not made known "to the officer to whom he addressed it," and the Criminal

Criminal Judge enjoined his Assistant, "in future "occasions, in addressing officers of other Departments "to style his letter thus 'I am directed by the Judge "or Criminal Judge' as the case might be." —

It further appears that, on the 13th of June last, the Assistant Criminal Judge wrote to the Magistrate of the Zilla, bringing to his notice certain irregularities in the proceedings of a Village and of a District Police officer, with reference to a which the Magistrate observed, in a letter addressed to the Criminal Judge, dated the 16th of the same month, that the mode in which the Assistant Criminal Judge had brought the above matter to his notice appeared to him to be as irregular as the original proceeding of the Village Moonsiff "in reference to the Regulations" continued the Magistrate "it will be seen that if there "any intention of bringing the matter to the Cognizance "of the Magistrate, it can only be done by the "party himself and that it is no more in my power "to question the conduct of the Village Moonsiff "upon your Assistant's information, than it is in "his to punish him for the irregularity of his pro= "=ceedings, unless judicially brought before him." —

This

This letter was referred by the Criminal Judge on the 18th of the same Month for the perusal of his Assistant who, in a letter addressed to the Criminal Judge dated the 23d of the same Month, submitted his reasons for questioning the correctness of the Magistrates opinion and requested that the matter might be referred for the consideration of the Judges of the Foujdaree Udalut:— In answer to this letter the Criminal Judge observed to his Assistant, in a letter dated the 29th of June, that the communication to the Magistrate had been made without his concurrence and that, as the Assistant had acted irregularly he did not see the necessity of complying with his request to forward the papers to the Court of Foujdaree Udalut and the letter concluded with some general rules for the future guidance of his Assistant— The Assistant Criminal Judge replied to the foregoing letter on the 13th of July following, stating that he had deemed himself empowered, under the Criminal Judge's letter of the 15th January, to correspond direct with the Magistrate and again soliciting that the papers might be submitted to the Judges of the Court of Foujdaree Udalut.—

According

According to the foregoing summary of the case before the Court, the points for consideration are, first, the proceedings of the Criminal Judge and his Assistant and, secondly the correspondence with the Magistrate of the Zilla.—

The Criminal Judge admits that the letter which was addressed by his Assistant on the 31st December 1817, to the Assistant Magistrate of the Zilla was written with his permission, and it follows, therefore, that for the act in question no blame whatever can attach to the Assistant Criminal Judge.—

The opinion which is advanced, however, by the Assistant Criminal Judge, in his letter of the 15th January, regarding his competence to address the Magistrate without reference to the Criminal Judge, is manifestly erroneous. Clause First Section V Regulation X of 1816, to which the Assistant refers, authorizes an Assistant to a Criminal Judge "to exercise the judicial "power vested in the Judge, as far as may "be necessary to enable him to perform the duties "committed to him by the Criminal Judge;" but

nothing

nothing in this enactment can be construed to empower an Assistant to carry on an official correspondence otherwise than with the express permission and under the immediate directions of the Criminal Judge.— With reference to that part of the Assistants letter wherein he states that a communication has been made with the Assistant Magistrate "whenever he has been the "Officer transmitting criminal cases," the Court deem it proper to state that such communication can only be regularly made, (under the limitations above specified) when the Assistant Magistrate may be in charge of the office of Magistrate of the station to which the letter may be addressed.

On the letter from the Criminal Judge dated the same day the Court of Foujdaree Adalut cannot forbear to remark that the order contained in the second paragraph, which simply pointed out the "style" of address to be observed by his Assistant, without enjoining any formal reference to himself in each particular case, may be considered to have given rise to all the irregularities which ensued.— If these instructions were intended to preclude the necessity of any formal reference to the Criminal Judge, they were obviously unauthorized and improper; and if otherwise, they were, as the event has shewn, very loosely and imperfectly expressed.—

Of the rules laid down by the Criminal Judge in his letter of the 29th June for the future guidance of his Assistant, the second enjoins that "if fresh evidence be re- "quired in any case, he should issue the usual "Summons for it, directed to the Nazir of the "Court". The course here enjoined by the Cri- minal Judge is not authorized by the sub- sisting Regulations under whose provisions it is necessary that, in the cases here contemplated by the Criminal Judge, a communication should be made to the Magistrate, or through him to the officers of police, as the case may be, for any additional evidence which may be required.—

It only remains for the Court to notice, under the first head, the order which appears to have been recorded by the Criminal Judge in his Diary on the 4th of February last, "directing, in the most general terms" as is stated in the Assistants letter of the 13th of July, that he

27th August 1818.

"he (the Assistant) should proceed upon the examination "and decide upon the merits of all cases, "(other than "those of murder & those in which Europeans were "concerned) which might be sent to the Criminal Court."

The remark recorded by the Criminal Judge, in explanation of the order here recited, cannot be admitted to justify an act which amounts to an absolute abandonment of that control over the proceedings of his Assistant which is enjoined in the Regulations, while it had an evident tendency to produce an erroneous impression on the mind of his Assistant as to the exact measure of his authority.—

The Court of Foujdaree Adaulut are willing to believe, however, particularly from the concluding paragraph of the Criminal Judge's letter dated the 15th Instant, that he has seen the error of his proceeding, and they consider it sufficient, therefore, in the present instance, to advise him of his fault and to admonish him accordingly.—

The Second subject for consideration is the correspondence with the Magistrate in the Zilla of Combaconum, including the complaint which the Assistant to the Criminal Judge has preferred respecting the opinions of the Magistrate as

as expressed in that correspondence.—

The matter in which the Assistant to the Criminal Judge feels himself particularly aggrieved is that his communication should be compared to the irregularity of the Village Moonsif and the form in which the observation is introduced is evidently that of ~~reflection~~ instruction. The words are, "as to the "first part of it however I must say that it appears "to me that the mode in which your Assistant has "brought this subject to my notice is as irregular "as the original proceeding of the Village Moonsif, "as upon reference to the Regulations it will be "seen that if there is any intention of bringing "the matter to the cognizance of the Magistrate "it can only be done by the party himself and it is "no more in my power to question the conduct of "the Village Moonsif upon your Assistants' information than it is in his to punish him for the irregularity of his proceedings unless judicially brought "before him.—

It is to be regretted that, before writing this letter, the Magistrate did not consider how impossible it was that the persons, in custody of another Officer, charged with heinous offence, should prefer

prefer complaints to him of maltreatment in o
to extort confessions, and that a full and fre
communication between the Criminal Judge
Magistrate, on all subjects connected with the
charge of their respective duties in those capacities
include information on the conduct of the
Officers under the superintendence of the latter
may be not likely to reach him in any other

In the case under consideration
there appears to be no ground for doubting that
person who, as head of the Village, is among
Police Officer of the Village, did receive the
of prisoners, an act expressly forbidden by the
regulations tho' no penalty is attached to a viol
of the rule - That the Moonsif asked questions
extort the confession was not proved on the
of the Magistrate, and there does not appear
any intention of bringing that matter to his
An act done by an Officer under his superintend
in violation of the law was communicated
information from the office of the Criminal
and it is by noticing the first transgressions
we must expect to prevent men from proceed
to acts of greater culpability. The plain implic

of the Magistrate was to warn the Village Police
Officer of his error and if he found, on enquiry, that
the act had been done under a delegation of authority
from a Tahsildar he could have done no harm
by apprizing his Tahsildars generally that such
delegations of authority were illegal. -

With regard to the informality
of the Assistant to the Criminal Judge addressing
the Magistrate, that forms a distinct question -
The Court are of opinion that all correspondence
should be carried on between the heads of the two
departments or the persons in charge of them;
but the signature of the Criminal Judge, if it had
been affixed to the letter in this case instead of that
of his Assistant, would not have altered the nature of
the communication, & there appears nothing to call
for or to justify the gratuitous reflection cast by
the Magistrate on the procedure of the Assistant
Criminal Judge. - Persuaded, however, as the Court
are that the Magistrate must see that no benefit
can arise from discordance between the public officers
employed in the same line of duty, & hopeful that
his future correspondence will be more consistent
with that full & free communication which ought

to

27th August 1818

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to subsist between the departments, the Court so
not consider it to be necessary in the present
instance to submit the matter to Government.—
Ordered that extract of these pro-
ceedings be sent to the Criminal Judge in the
Zilla of Combaconum for his information and future
guidance and to be by him communicated for the
information and future guidance of his Assistant.—
Ordered also that extracts from these
proceedings be sent to the Court of Circuit in
the Southern Division by precept directing them
to communicate the same to the Magistrate in
the Zilla of Combaconum for his information and
future guidance.—

/Sent following Precept B/

/Sent following letter/

E.S
M

J. U

At a Court of the Foujdaree Udalut

Present

Monday
31st August 1818.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

M
E.S

Read letter, dated the 13th instant
from the Second Judge late on Circuit in the
Northern Division,— submitting report prescribed
by Section XXXVII Regulation VII of 1802.—

/Here enter No. 445/

The Second Judge of the Court of
Circuit in the Northern Division opens his Report
with a few general observations regarding the treat-
ment and employment of the prisoners within the
Division which, the Court are well pleased to
remark, bear favorable testimony to the care and
attention bestowed by the several Criminal Judges
on this important part of their duty.— The suggestion
of the Second Judge with regard to the general
introduction of iron chains in the place of the
barrows with which the Convicts are at present
fettered may be deemed to merit the consideration
of the Right Honourable the Governor in Council.—

The Court will now proceed to
record

record such observations as appear to be necessary on certain points particularly brought to their notice by the Second Judge and will conclude with a few general observations on the measures pursued by the Second Judge during his late Circuit.—

2 To the introduction of a clause into the Regulations of 1816, declaring Servants of the Government incompetent to attest confessions, would appear to be attributable much of the difficulty which is now found to exist with regard to obtaining the attendance before the Court of Circuit of witnesses to confessions made before any of the subordinate authorities.— This novel clause, it is necessary to observe, did not form any part of the drafts of the Regulations which were referred to the Court of Foujdaree Udalut on the 16th of July 1816 and which were submitted to the Right Honourable the Governor in Council with the observations of the Court on the 29th of the same month. This provision is understood to have been introduced under a belief that the testimony of the officers of Government to confessions was objectionable according to the Mohumedan law; but this opinion has no foundation, the objections of the Mohumedan law being restricted to the testimony of Police officers to

confessions on the ground of its being their duty to apprehend offenders. The Court therefore deem it incumbent on them to bring to the particular notice of Government a provision which has not been attended with so much practical inconvenience. In the mean time, however, the Court consider it proper to observe that the provisions of Section XXXIII Regulation X of 1816 are applicable to witnesses to Confessions, and that it is competent to a Criminal Judge, under the discretion vested him in this respect by the provisions of the general Regulations, to bind over such witnesses, whenever this measure may appear to be requisite, in order to ensure their attendance at the Sessions of the Court of Circuit.—

The proceedings which were held by the Court of Foujdaree Udalut on the 10th July on the papers submitted by the Magistrate of Vizagapatam, relative to a charge of resistance of process, render it unnecessary that the Court should record any order on the subject noticed in the nineteenth paragraph of the Report.— The reasoning of the Second Judge, founded on the provisions of Section XIII Regulation IX of 1816 is, in its general spirit

Spirit, conformable with the intent of the Enactment; but it is proper that the Court should point out one limitation with which his opinion should be guarded.— Under the provision of the Section in question, it is imperative upon a Magistrate to receive the written plaint of a Complainant, "who may be unable "to attend in person or was not himself present "at the Commission of the act complained of," through his authorized Agent.— In all such cases, however, the plaint is to be corroborated, not by the oath of the authorized Agent, who appears only, as the term itself implies, on the authority and by the direction of another, but "by the deposition on oath of one "or more persons present or otherwise personally informed "of the truth of the complaint."—

The several orders which were issued by the Second Judge to the Magistrate of Vizagapatam on the different matters particularized in the next succeeding paragraphs of the Report merit the entire approbation of the Court of Fouzdaree Adalut, with whom it only remains to notice one or two points connected with this part of the report.— It is alleged by the Magistrate of Vizagapatam that the instructions which he issued to his police officers, as referred to in

in the twenty second paragraph of the report, were intended as a measure of precaution in order to maintain the peace of the Zilla.— The Circular orders issued by the Court of Fouzdaree Adalut on the 3d. of October 1817 enjoined all that appeared to be necessary in order to guard the community from danger on the enlargement of notorious offenders.— Under the terms of those orders it is necessary only that Magistrates should command the police officers under their authority to keep a watchful eye over the conduct of such persons, and had the Magistrate of Vizagapatam attended to the letter and spirit of these instructions the Court cannot suppose that he would have issued to his police officers orders so arbitrary in their nature and so manifestly injurious in their tendency.— The other point which calls for observation from the Court is the declaration repeatedly made by the Magistrate, in his returns to the Second Judge, that the "information to be derived from the records "of the former Magistrate has been denied to "him by withholding the records."— It must be in the recollection of the Magistrate that a reference

reference was made by him on this subject to the Court of Foujdaree Udalut on the 20th of November 1817, and it is not apparent to the Court on what grounds the Magistrate considers himself to be debarred from free access to the records of the late Magistrate, although it is deemed indispensable, for the reasons specified in the Court's letter of the 5th December 1817, that such records should remain under the Custody of the Criminal Judge of the Zilla.—

In addition to the orders issued by the second Judge respecting the powers which had been relegated by the Magistrate to the Ameen Police of Vizagapatam, the Court consider it to be incumbent upon them expressly to enjoin that hereafter he be permitted to exercise only the police powers of a Tahsildar, as defined in Regulation XI of 1816, which appear to have been conferred upon him by the Magistrate of Vizagapatam.—

The subject noticed by the second Judge in the thirtieth paragraph of his report was referred for the consideration of the Foujdaree Udalut by the third Judge of the Court of Circuit in the Northern Division in the letter which accompanied

accompanied the Masulipatam Calendar for the First Quarterly Sessions of 1818, and the point was considered by the Court on the 4th of April last when the following opinion was recorded— "The "visit required to be made by the Judge of the "Circuit at each Sessions of jail delivery is to "be limited to the Zilla jail, and with regard "to the discretion vested in the Magistrate as "to the place of confinement for offenders who "may be by him committed to prison under "Sections XXXII and XXXIII Regulation IX of 1816, "it is to be supposed that the latitude so given "to the Magistrate in regard to confining offenders "in the Village Chauttries will be exercised "chiefly in cases where the Magistrate may be "absent from the Zilla station, and that com- "mitments made by the Magistrate or Assistant "Magistrate at the Zilla station, under the "Sections above quoted, will generally be to the "jail of such Zilla station".—

That offender sentenced by the Magistrate to be imprisoned at the Zilla station should be sent generally to the Zilla Jail appears to be the more necessary with

a

a view to the safe custody of their persons, and the Court of Foujdaree Udalut deem it proper, therefore, that the attention of the Magistrates in the Northern Division should be called to the opinion entertained by the Court as to the intent and meaning of this enactment of the legislature.—

It may be necessary, however, to apprize the Second Judge of the Court of Circuit, with reference to the sentiments which he has expressed in this part of his Report, that nothing in the subsisting Regulations can be construed to withhold from a Judge on Circuit the power of visiting, in his progress through the Division, such Village Choultries as may fall within the limits of his observation in order that he may form an opinion respecting the treatment of prisoners of every description within the Division and be thereby the better enabled to discharge the duty imposed upon him by Section XXXVII Regulation VII of 1802, and that he may adopt such other steps as shall appear to him to be necessary under the provisions of the general Regulations.—

The order issued by the Assistant Magistrate in the Zilla of Vizagapatam forbidding a certain

a certain Zemindar, named Soorya Narrain Roydoo, to use the arms which had been authorized by the former Magistrate and which must be considered to be allowable under Section XLIX. Regulation XI of 1816 is submitted, without comment, to the consideration of the Right Honourable the Governor in Council.—

With regard to the observations made by the Second Judge at the commencement of the Thirty ninth paragraph of his report, it may be sufficient to state that the power to punish persons for preferring frivolous complaints has always been limited to the cases of the description referred to in Sections XXXII and XXXIII Regulation IX of 1816, and that on general principles, it does not appear to be expedient that the power should be extended to cases of a more serious nature, in which the measure of punishment here prescribed would be obviously inadequate to the deep malignancy of the offence.—

In the remaining part of this paragraph the Second Judge has arrived at a conclusion, to which the Court are not prepared to follow him, that all offences between those specified

31st August 1818

specified in Section XXVII Regulation XI of 1816, and the trivial offences punishable under Section XXXIII of the same Regulation "must escape "punishment or be very inadequately punished."-

The cases here contemplated by the Second Judge are apparently such as are intended to be provided for in Section XXXI Regulation XI of 1816 and which, it is to be observed, in correction of a remark made by the Second Judge, are referrible by a Tahseildar to the Magistrate of the Zilla.-

It must also be observed that complaints for offences of this, as well as of every other description, may at all times preferred before a Magistrate under Regulation IX of 1816.- On the question submitted by the Second Judge towards the conclusion of his report with regard to obtaining the assistance of Village Curnums in the manner and for the purpose there specified, the Court of Foujdaree Adalut have only to observe that the proper course to be pursued by a Criminal Judge under such circumstances appears to be to communicate with the Magistrate of the Zilla in order that the necessary orders may be issued by that Officer to ensure the co-operation of the Curnums.- The

The Court of Foujdaree Adalut having concluded their remarks on all such points noticed in the Report as appeared to call for observation, deem it their duty to record their marked approbation of the manner in which the Second Judge has performed the important duties which devolved upon him during the late half-yearly Sessions of jail-delivery.- The several papers which accompany the Report and which the Court consider it proper to submit to the Right Honourable the Governor in Council shew that, on his arrival at each Zillah Station, the Second Judge examined, with attention, the proceedings of the Magistrates and of the Police Officers and adopted the most effectual measures to obviate the recurrence of such irregularities as appeared on those proceedings by bringing to the particular notice of the Magistrates the errors of the past and by pointing out, with precision, the course to be pursued for the future.- Many of these irregularities were, as is shewn by the several precepts and returns, of a serious complexion, and it has not escaped the notice of the Judges of the Foujdaree Adalut that, in addition to the various

various matters which attracted the attention of the Second Judge on examining the Calendars presented to the Court of Circuit, he investigated, with patience and care, the complaints which were preferred to him for redress of grievances and that, in one instance, he anticipated the orders of the Court as recorded on their proceedings of the 10th July.-

It is to be presumed that very material benefit will result from the well-directed labours of the Second Judge during his late Circuit and that the Magistrates will be more careful hereafter to conform in their own proceedings, and to cause the proceedings of the police officers under their authority to be in all respects conformable to, the provisions of the Regulations.- The most prominent feature, however, throughout the whole of these proceedings is the declared inability of the Magistrates, under the pressure of business which devolves upon them in their fiscal Capacity, to discharge the duties of their judicial office, and the consequent delegation of authority, either entirely to their European Assistants or in a great degree to the officers of police, one of whom in the Zilla of Ganjam was actually required to give his opinion in one or two cases as to the measure of punishment to be inflicted.- The

Cause

Cause here assigned, as impeding the due performance of the important duties with which the Magistrates are entrusted, must be co-existent with the system, but the Court have deemed it their bounden duty to acquaint the Magistrates, ~~[illegible]~~ that nothing can be held to justify a general delegation of authority to their European Assistants or the transfer to their police Officers of powers the exercise of which is likely to be attended, in the hands of the native Officers of Police, with an encroachment on the liberty of the subject and with injury to the community at large.-

Ordered that extract of these proceedings be sent to the Second Judge late on Circuit in the Northern Division for his information and future guidance and that he be by precept commanded to communicate to the Criminal Judges and Magistrates of the Zillas within the Division such parts of the proceedings as concern those Officers, either generally or specially, for their information and future guidance.-

(Sent following Precept A)

Ordered also that the Report and Extract from these proceedings be sent to the

Secretary

31st August 1818

Secretary to Government in the Judicial Department
for the purpose of being laid before the Right
Honourable the Governor in Council.—

/sent following letter B/

A1

EC/

2

No 46

Copies

At a Court of the Foujdaree Udalut
Present

Wednesday 2nd September 1818.— Andrew Scott Esqr
Edward Colebrooke Ivenway Esqrs } Judges.

Read letter dated the 22nd Ultimo
from the 1st Judge on Circuit in the Southern
A1 Division with the Copy of Salem Calendar 2nd
EC/ Sessions A. D. 1818.—

/Here enter No 447./

It is stated in the column of re-
=marks in Case No 6 of the Salem Calendar that
"the Prisoners are convicted of Gonnamee Doozdie
"and sentenced under Ochoobut to two years im=
="prisonment and hard labour in irons."—

"Gonnamee Doozdie" signifies "suspi=
="cion of theft", and it is declared in Clause
Sixth Section II. Regulation XV of 1803 that no
punishment whatever shall be inflicted on
suspicion only.— Under this exposition of
the law it will be apparent to the First
Judge on Circuit in the Southern Division
that the sentence passed in the present case

is

2d September 1818

is not in conformity with the provisions of the Regulations and that, under the Fatwas declared by the Provincial Law officers, it is incompetent only to the First Judge, unless he shall see cause to disapprove the opinion declared in the Fatwas, to direct that the Prisoners in question be released, either conditionally or unconditionally as shall to him appear to be expedient.—

Ordered that extract of these proceedings be sent to the First Judge on Circuit in the Southern Division for his information and guidance.—

Sent following letter.

/Here enter A/

Read letter, dated the 24th Ultimo from the 3d Judge on Circuit in the Centre Division with Copy of Cuddapa Calendar 2d Session A. D. 1818.—

/Here enter No 849/

The Court desire to have before them Copies of the Fatwas delivered in each

2d September 1818

cases Nos 10, 17, 21, 28, 39, 40, 41, 42, 44, and 47, wherein the Judgment declared in the Fatwas is stated to have been "Rihaee" and the sentence of the Court of Circuit to have been "released on security".—

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Centre Division by Precept desiring him to send up copies of the Fatwas delivered by the Provincial Law Officers in the several cases abovementioned within ten days from the date of the receipt of the Precept.—

R. A. Sent following Precept

N
845

August 1818

2? &

Copied

J. A.

At a Court of the Sowjdaree Adalut.

Present,

Friday 4th September 1818.— Andrew Scott Esqre. Edward Croft Greenway Esqre. } Judges.

Read return, dated the 25th ultimo, from the 1st Judge late on Circuit in the Western Division, to precept dated 31st ultimo, calling for the report prescribed by Section XXXVII Regulation VII of 1802.

Here enter No. 458.

In commenting upon the Canara Calendar the First Judge late on Circuit in the Western Division explains at some length the reasons which induced him to discharge a prisoner without putting him upon his trial, and under the circumstances specified by the First Judge, the Court of Sowjdaree Adalut are of opinion that the course which he pursued was expedient and proper. In declaring, however, that the Mahommedan law "sanctions the commutation of these crimes of

"/of murder and wounding/" between the parties
"and that the Regulations do not expressly
"forbid them," the First Judge has made two
assertions of which the Court deem it proper to
observe that the first is to be received with some
limitation and that the latter does not appear
to be consistent with the provisions of the Regulations.
In cases of homicide under the Mahommedan
law, it depends on the circumstances with which
the homicide has been attended whether the
penalties are to be fixed with reference to the
right of God or the right of man, in the former
of which events it is not competent either
to the party injured or to the Hakim to remit
or compound the prescribed penalty - and in
correction of the latter assertion of the Second
Judge on Circuit, the Court of Foujdaree
Adalut need only cite the provisions of
Section XXVII Regulation IX of 1816 which
expressly declares that "no private compromise
"or Rajeenamah shall be admitted by the
"Magistrate"/or, on every principle of just
analogy, by any judicial authority/" in
"Crimes

"crimes of a heinous nature such as on
"conviction may require exemplary punish-
"=ment for the ends of public justice."-

Of the remarks recorded by
the First Judge in the latter part of his
Report it is to be observed that they agree,
as in their general spirit and as to the continual interference of the
opposite duties of revenue and police, with
the opinions which have been submitted*
by the Judges of the Courts of Circuit in
the other three Divisions regarding the
effect of the Criminal enactments of
1816.-

The Court of Foujdaree Adalut
will only remark in conclusion that
circumstances which have been brought
to their notice by the Judges of the Courts
of Circuit in the Northern and Southern
Divisions, as well as the avowal of the
Magistrate of Guntoor in his ##return to the
Receipt of the Court of Circuit dated the 26th
of

*Submitted to Government with the proceedings of the Court of Foujdaree Adalut dated 13th July last.

of June 1818, regarding the constant occupation of the Tahsildars under his authority in revenue duties, add considerable weight to the observations contained in the following passage with which the First Judge of the Court of Circuit in the Western Division closes his report. "It appears "to me that the Police to be in any way "efficient must be ready to follow up the commission of crime with immediate "enquiry and pursuit. This can never be "expected while the revenue servants are "the Police Officers, these persons receive "their pay for collecting the revenue, their "character, their continuance in office, "depends on the manner in which they "perform this duty, and which they naturally "consider as a paramount one, and the Police "as a secondary object. It is not, therefore, "likely a Revenue Officer will immediately "quit his collections, on receiving notice "of a robbery in another part of his district

J. A.

4th Septr

"district to go and enquire into it - he will "probably prefer writing to the Carbutty and "head men to enquire into the circumstances "and to inform him and he will come, their "enquiries will not go beyond their own "Holdly and time is thus given to the "robbers to evade justice as well as to "conceal or dispose of their booty -"

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Western Division for his information -

Sent

Sent following letters -

(Here enter A)

Ordered also that the Report and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council -

sent 7th

Sent following letters

(Here enter B.)

R. A.

11

605

J. U.

At a Court of the Zuydaree Udalut

Present

Thursday
10th September 1818

Andrew Scott Esqre. }
Edward Croft Greenway Esqre. } Judges

Read return, dated the 27th Ultimo from the Third Judge on Circuit in the Northern Division, - to the Court's precept dated 19th Ultimo ordering Copies of ~~the Decision~~ the Futwas in Cases Nos. 15 & 16 Nellore Calendar 2d Sessions AD 1818. -

No 1

/Here enter No. 461/

In No. 15 of the Calendar the first and second Prisoners who are declared in the Futwa to be liable on "Suspicion of theft" to Kohsabut, have been sentenced to five years imprisonment and hard labour, and the Prisoner in No. 16 of the Calendar, who is also declared to be liable to Kohsabut on "Sus= =picion of theft," has been sentenced to imprisonment and hard labour for twelve Calendar Months. -

It is declared in Clause Sixth Section II Regulation XV of 1803 that no punishment whatever shall be inflicted on suspicion only. - Under this exposition of the law it will be apparent to the Third Judge on Circuit in the Northern Division that the Sentences passed in the present case are not in con= =formity

J. U.

At a Court of the Zuzydaree Udalut

Present

Thursday
10th September 1818

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read return, dated the 27th Ultimo from the Third Judge on Circuit in the Northern Division, - to the Courts precept dated 19th Ultimo ordering Copies of ~~the Proceedings~~ the Futwas in Cases Nos 15 & 16 Nellore Calendar 2d Sessions AD 1818. -

N1

/Here enter No 461/

In No 15 of the Calendar the first and second Prisoners, who are declared in the futwa to be liable on "suspicion of theft" to Cohoobut, have been sentenced to five years imprisonment and hard labour, and the Prisoner in No 16 of the Calendar, who is also declared to be liable to Cohoobut on "suspicion of theft," has been sentenced to imprisonment and hard labour for twelve Calendar Months. -

It is declared in Clause Sixth Section II Regulation XV of 1803 that no punishment whatever shall be inflicted on suspicion only. - Under this exposition of the law it will be apparent to the Third Judge on Circuit in the Northern Division that the Sentences passed in the present case are not in conformity

conformity with the provisions of the Regulations; and that, under the Futwas delivered by the Provincial Law Officer, it is competent only to the 3d Judge, unless he shall see cause to disapprove the opinion declared in the Futwas, to direct that the Prisoners in question be released, either conditionally or unconditionally, as shall to him appear to be expedient.—

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division for his information and guidance.—

Dated 11th. /Sent following letter A/

Read letter dated the 27th. Ultimo. from the 3d Judge on Circuit in the Northern Division submitting Copy of his requisition to the Criminal Judge at Nellore for assistance in the translation of the record of certain Cases referrible to the Foujdaree Udalut and of that Officer's return thereto and stating that it will be necessary for him to employ extra English Translators in order to enable him to forward the cases without serious delay.—

/Here enter No. 460/

In making return to the Receipt of the Third Judge's

the Criminal Judge of the Zillah of Nellore expresses himself as follows— Vizt. "The Criminal Judge is sorry "that the establishment of the Zilla Court will not "admit of so many writers being employed, as would "be required to translate and copy the Records of Trials* "No 849 which have been forwarded to him by the "3d. Judge on Circuit.—They are therefore transmitted herewith."

The unwillingness manifested by the Criminal Judge in this Return to afford his assistance in preparing the Records of the Criminal trials in question for transmission to the Foujdaree Udalut has arisen, the Court trust, from an erroneous conception of the relative importance of the several duties of his office.— It is imperative on every judicial officer to lend his aid in promoting the early attainment of the ends of public justice, and the task which the Criminal Judge of the Zillah of Nellore represented himself as unable to perform with respect only to three trials referrible to the Higher Court is performed in many of the Zillas under this Presidency with regard to all the cases submitted to the Court of Circuit.—

The Court of Foujdaree Udalut are of opinion that if a due economy of time were

* Note. That is, the Records of the Proceedings held before the Criminal Judge, as enjoined by the Precept of the Judge of Circuit.

were observed by the Judge and Criminal Judge his ordinary duties could not have been subjected to any delay by preparing the English translations in question, and they conceive that the labour of making them should of right have rested with the inferior officer before whom the proceedings had been held. –

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division by Precept desiring him to communicate the same to the Criminal Judge in the Zillah of Nellore for his information and future guidance. –

R.B. /Sent following Precept B/J

M

J. U

At a Court of the Foujdaree Adalut

Friday the 11th September 1818.

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter dated 28th Ultimo, from the 3d Judge on Circuit in the Northern Division, submitting copy of precept to the Criminal Judge at Nellore and of that Officer's return regarding the case of a prisoner under confinement in the Gail of that Zilla. –

M

/Here enter No 463/

It appears that on the 19th Ultimo the Third Judge on Circuit issued a Precept to the Criminal Judge in the Zilla of Nellore calling upon that officer to explain under what circumstances a person, named Cadoor Reddy, who had been sentenced to eighteen months' imprisonment and hard labor and to find security for good behaviour for two years, was still in imprisonment, notwithstanding the expiration both of the term of imprisonment and of the period for which security had been required. –

In the return which was made to this

11th September 1818.

ensure the good behaviour of the prisoner, and it is evident that the ends for which the Security was required were strictly answered by the personal restraint under which Codoor Reddy remained during the period in question.- How the Criminal Judge should have put any other interpretation on the meaning of the warrant, notwithstanding the Court's Circular orders of the 30th August 1816, it is difficult to understand.-

The Court, having endeavoured to correct the very erroneous conception on the subject of the warrant which the Criminal Judge professes to have entertained, consider it incumbent upon them to record their marked disapprobation of the tone and manner in which the Criminal Judge made his return to the precept of the Judge on Circuit - The whole spirit of the return is argumentative, not explanatory, and the Criminal Judge presumes, in language which the Court of Foujdaree Adalut regard as alike flippant and disrespectful, to dis-pute the correctness of the opinion entertained by the Judge on Circuit in a matter left solely to his determination, as a Judge of the Court from which the warrant had originally issued.-

In the hope that the Criminal

Judge

2 F. U.

11th September 1818

Judge will see the impropriety of his conduct and will be careful, in his future intercourse with his superiors, to observe a demeanour more consistent with their relative situations, the Court of Foujdaree Adalut consider it sufficient in the present instance to advise the Criminal Judge of his fault, and they direct that he be advised and admonished accordingly.-

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division by Precept desiring him to communicate the same to the Criminal Judge in the Zilla of Nellore for his information and future guidance.-

sent 14th

RH. / Sent following Precept &c /

M

this Precept on the 27th. of the same Month, the
Criminal Judge entered into an argument to shew,
in opposition to the construction given to the warrant
by the Third Judge on Circuit, that he conceived Codoor
Reddy was not to be set at liberty until he should give
Security, "and that his good behaviour was to last two
"years after he should be released." "Whether," the
Criminal Judge proceeded, "the Third Judge on
"Circuit has guessed the true meaning of the First
"Judge's warrant is another point; the Criminal Judge
"can only observe that as it now stands it cannot
"bear any other construction than that which he
"has given it, nor was it intended to bear any other."
And the Criminal Judge concluded with observing
that he was ready to obey any orders which the Third
Judge on Circuit might think proper to give him
respecting the release or detention of Codoor Reddy.

On reviewing the several circumstances
of the Case as here recited, the Court of Foujdaree Udalut
regret that, instead of calling upon the Criminal Judge
for an explanation, the Third Judge on Circuit did
not, on satisfying himself, by a reference to the
warrant of commitment, that the whole term of
imprisonment to which Codoor Reddy had been
sentenced

sentenced was expired, issue an order to the Criminal
Judge of Vellore to set him at liberty. — It was
competent to the Third Judge, and to the Third Judge
only, to determine as to the intent and meaning of
a warrant of the Court of Circuit, and it would have
been the duty of the Criminal Judge promptly
to obey an order issued by the Judge of Circuit in
a case clearly left to the discretion and judgment
of the latter.

But the return of the Criminal
Judge contains matter which calls for the particular
attention of the Court of Foujdaree Udalut. —
The warrant of the First Judge stated:
Codoor Reddy was to be imprisoned for eighteen
Months "and previous to his release from confine-
"ment to give security for his good behaviour for
"the space of two years." The sentence of imprison-
ment was for eighteen Months, and it was further
deemed necessary, by the Judge passing the
sentence, that he should give security for two
years subsequent to the expiration of the sentence
of imprisonment. — In specifying this particular
number of years, the Judge on Circuit plainly
declared the exact term for which he considered
it necessary that measures should be taken to

ensure

Copy

F. 86.

At a Court of the Foujdaree Adalut

Monday
14th September
1818

Present

Andrew Scott, Esquire
Edward Croft Greenway, Esquire } Judges

E&S
AJ

Read letter, dated the 5th
instant, from the Third Judge on Circuit in
the Western Division, - submitting case No 4 of
the Cuttack Calendar 2d Sessions of 1818.
[Here entered No 435.]

The Court having maturely
weighed the proceedings held before the Third
Judge on Circuit the futwa of the Provincial
Law Officer and the futwa of the Cazee-ool-
Cozat and Moofties of the Foujdaree Adalut
confirm the said futwa of the Cazee-ool-
Cozat and Moofties aforesaid and under
the provisions of Clause first Section IV Regu-
lation XV of 1803 adjudge the prisoners
"Parudra and
"Hoova"
to suffer death by being hanged at the usual
time and place of execution.
[Sent following letter, AJ

14th September 1818.

Record letter, dated the 21st July last, from the Third Judge on Circuit in the Centre Division, - submitting case No 73 Criminal Jury Calendar - 2d Sessions of 1818.

Here enter No 424/

The Court having maturely considered the proceedings held before the Third Judge on Circuit the Notes of the Provincial Law Officer and the Notes of the Cazee & Cotgat and Moofties of the Tribunal Adalet confirm the said Notes of the Cazee & Cotgat and Moofties aforesaid and order the Sentence of Adjudged the prisoners

"Soobardoo" and

"Parrindalangaredoo"

to be imprisoned and kept to hard labour on irons on the public roads or other public works for and during the period of twelve Calendar months and then released -

Read letter, dated the 10th ultimo, from the Third Judge on Circuit on the Centre Division, - submitting case No 58 Criminal Jury Calendar 2d Sessions of 1818.

Here enter No 456/

the

14th September 1818.

The Court having maturely weighed the proceedings held before the Third Judge on Circuit the Notes of the Provincial Law Officer, and the Notes of the Cazee & Cotgat and Moofties of the Tribunal Adalet confirm the said Notes of the Cazee & Cotgat and Moofties aforesaid and acquitting the prisoner

"Nurson"

direct that he be released according to -

/ Sent following letter /

The Record of the Proceedings held on this case calls for some particular observations from the Court of Justice. It is in the first place proper to remark, with regard to the circumstances under which the Crime of perjury is alleged to have been committed, that the Prisoner, Nurson, appeared before the Zillah Court as a witness on the part of the Defendants, Ram Ram, from whom the Plaintiff, Yogamundun, sought to recover damages, and that the tendency of certain of the questions put to him by the Zillah Court was to lead him

to

to criminate himself.- It is attempted to be shewn, indeed, that such self-criminations would not have subjected the Prisoner Nurse in the present instance to the "specific penalty" prescribed in a certain provision of the Regulations, but in order to shew the impropriety of the questions proposed by the Salem Court, it is sufficient to remark that their tendency was obviously to criminate the examinant in acts of oppression, the full disclosure of which, notwithstanding them to have been committed, must have been viewed by the examinant as calculated to produce results unfavorable to himself.-

The arraignment of the Prisoner Nurse before the Court of Circuit is worded as follows.- "You Nurse stand "here charged by the Jurors (Prosecutors) with "having been guilty of wilful and corrupt perjury on the 19th of May 1818 in "the Admiralty Court of the State of Connecticut. How say you, are you guilty or not "guilty?

The only points noticed in this arraignment

arraignment are the place where and the time when the perjury with which the prisoner was charged is alleged to have been committed. It neither describes the judicial proceeding to the issue whereof the point, upon which the perjury was alleged to have been committed, was supposed to be material, nor contains the words alleged to have been spoken by the accused person. Much less does it contain any averment of what was the truth and the fact the opposite of which having been sworn to constituted the perjury charged. It is evident that a charge of perjury must rest on these two points. First, that one fact is the truth, and, Secondly, that another fact which was not the truth, was wilfully and corruptly sworn to by the accused. An arraignment is doctrinally to state the issue or question to be tried, and it is essential to the issue, in a case of perjury, that the truth which is to be proved be set forth, as well as the falsehood which is to be proved to have been uttered in oath.-

The same features which mark

14 14th September 1818.

mark the arraignment; characterize, as would naturally to be expected, the whole of the proceedings of the Court of Circuit, which are confined to interrogating the Prisoners as to certain inconsistencies observable in his depositions of the 19th and 21st of May respectively. Under the total silence of the arraignment as to the issue or questions to be tried it might have been deemed, indeed, to be both irrelevant and improper to take any evidence either to the fact which was the subject of the words spoken by the accused or which the perjury was supposed to have been committed.-

The Court of Toujdaree Adalut had hoped that their circular instructions of the 31st January 1814 would have operated to prevent the occurrence of such irregularities as those upon the present trial.- It is learned information upon them to direct the particular attention of the Third Judge on Circuit in the Centre Division to the observations relating to cases of Perjury recorded on the Letter from

14th September 1818.

of those proceedings, and also to direct that the attention of the Criminal Judge on the Zilla of Cuddapa be particularly called to that part of the same proceedings which relates to the necessity of preparing in each case a brief statement in the nature of an indictment to be delivered, with his proceedings, to the Judge of the Court of Circuit, and to be by him adopted at the arraignment when the prisoner is brought to the bar.-

The Court of Toujdaree Adalut have to remark, in conclusion, that the Provincial Law Officer has omitted to attest the copy of the petition which is annexed to the Persian record of the proceedings of the Court of Circuit.-

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Centre Division for his information and future guidance and that he be by precept enjoined to communicate to the Criminal Judge in the Zilla of Cuddapa such

parts

14th September 1818

parts of the proceedings as concern that Officer, as also to communicate the enclosing paragraph for the information and future guidance of the Provincial Law Officers.

E.C.S.
A.S.

R.A.

Sent following Paragraph

Copies

F. 16.

At a Court of the Tongdaree Adalut

Wednesday 16th September 1818.

Present

Andrew Scott, Esquire
Edmond Croft Greenaway, Esquire
} Judges.

Read letter, dated the 31st ultimo, from the third Judge on Circuit in the Western Division, - with copy of Camara Calendar 2d Sessions A. D. 1818 and of correspondence with the Provincial Judge and Magistrate relative to the cases of persons apprehended and not brought before the Court of Circuit.

E.C.S.
A.S.

/Recorded N. 469./

The Court of Tongdaree Adalut desire to have before them a copy of the Judges delivered by the Provincial Law Officers in case N. 1 of the Camara Calendar wherein it appears that on a Sentence of "Cohoobut i. Khufeefs" or slight Cohoobut against the first and Second Prisoners and of "Discretionary punishment" against the third

third, the first and Second Prisoners have been sentenced to be punished with thirty Stripes each and to be imprisoned and kept to hard labour in irons for five years and that the third prisoner had been sentenced to be punished with twenty four Stripes and to be imprisoned and kept to hard labour in irons for the period of three years.-

The Court have attentively considered the correspondence between the third Judge on Circuit and the Criminal Judge in the Zilla of Canara which accompanied the Calendar. Under the orders of Government dated the 19th ultimo the Court consider themselves to be precluded from issuing any orders on the subject of the returns made by the Criminal Judge to the Precept of the Judge on Circuit dated the 20th ultimo; but it is imperative on the Court of Zuzdaree Adalut to observe that the Third Judge strictly fulfilled the duties of his office in adopting such measures as he considered

to

to be necessary in order that persons charged with crimes might be speedily brought to trial. As the Third Judge has quitted Mangalore to proceed to the other stations in the Division the Court of Zuzdaree Adalut consider it to be advisable that the several prisoners in question should be brought to trial at the first Sessions of Jail delivery for 1819.-

On examining the list of prisoners not brought up for trial before the Court of Circuit the Court of Zuzdaree Adalut remark that all of them are stated to have been detained at the police Stations for periods varying from five days to two months and a half. The occurrence of such serious delay in so many instances argues extraordinary inattention on the part of the Native Officers of police in the Zilla of Canara to the provisions of the Regulations, and the Court direct therefore that the Magistrate in the Zilla of Canara be commanded to enjoin on the

several

16th September 1818

several District Police Officers under his authority a strict observance of the clause and Section XXVII Regulation XI of 1816 which declares that prisoners are to be forwarded by the Police + Officers within forty eight hours, if possible, to the Criminal Judge of the Zillas.

Ordered that extract of these proceedings be sent to the Third Judge on circuit in the Western Division by precept desiring him to send copy of the Sutwas delivered on case No. 1 of the Canara Calendar 2d Session of 1818 and to communicate the latter part of these proceedings to the Magistrate in the Zilla of Canara for his information and guidance.

(Sent following Precept No 15

Read petition presented by Venkata Dass on behalf of Narsingerayen

(Hereunder No 18)

The circumstances set forth in the former part of this petition appear to have been investigated and determined upon by the proper authorities and the matters stated at the conclusion of the petition are cognizable only by a Court of Civil Judicature.

The Court direct, therefore, that the prayer of the petition be rejected, and that extract of these proceedings be furnished to the vakeel Venkata Dass.

Read letter, dated the 7th instant, from the Third Judge on Circuit in the Centre Division, with copy of Bellary Calendar, 2d Session A.D. 1818.

(Here under No 483)

The Court desire to have before them copies of the Sutwas delivered in cases No. 5, 8, and 38 of the Bellary Calendar in which the Prisoners have been ordered to be released on Security, and copy of the Sutwa delivered in case No 17 of the same Calendar in which the Second Prisoner has been Sentenced, on Shoobah-i-Dowdee or suspicion of theft to three years imprisonment and hard labour.

The Court of Foujdaree Adalaut observing

observing that in five cases, Nos. 14, 20, 26, 27, and 29, the trial of the prisoners has been postponed until the ensuing Sessions, on account of the absence of the witnesses. deem it proper to call upon the Third Judge on Circuit to ascertain whether the necessary measures were adopted to ensure their attendance before the Court of Circuit and also to explain whether, on the event of their having been bound over to appear, the penalties of their recognizances have been forfeited to Government.-

There are several cases enumerated on the Calendar on which the date of the apprehension of the offenders, is stated to be unknown. The Court of Fouzdaree Adalut direct, therefore, that the attention of the Magistrate in the Zilla of Bellary be called to the provisions of Section XXV Regulation IX of 1816 and that he be requested to enforce upon the District Police Officers under his authority the necessity of observing the forms prescribed in Clause fourth Section XXVII Regulation XI. of 1816.

In the columns of remarks on case No. 43. of the Calendar, wherein the prisoners were charged with having committed adultery, the Acting Criminal Judge states "that "the criminal prosecutor did not appear in "Court to prosecute the parties." Referring to the above observations the Court direct that the attention of the Acting Criminal Judge be called to the provisions of Clause fourth Section III. Regulation I. of 1818 which declares that "in cases of adultery the charge "shall be made and prosecuted exclusively "by the husband against the wife or by "the wife against the husband." Should the husband have omitted, in like manner, to appear before the Court of Circuit, it will be the duty of the Third Judge on Circuit to direct that the prisoners be set at liberty.-

Ordered that extract of these proceedings be sent to the Third Judge in the Centre Division on Circuit, by Precept commanding him to send the copies of the Futwas above mentioned and to furnish the requisite information

16th September 1818.

information with regard to the forfeiture of the amount of the recognizances of the absent witnesses with as little delay as possible, and also enjoining him to communicate to the Acting Criminal Judge and to the Magistrate in the Zilla of Bellary such parts of these proceedings as concern those Officers respectively.

/ Sent following Precept /

Read letter, dated the 7th instant, from the Third Judge on Circuit in the Northern Division, with Calendar of Fourteen Prisoners tried by the Court of Special Sessions at Masulipatam.

/ Here entered No. 488 /

Referring to a remark recorded by the Criminal Judge in the Zilla of Masulipatam on case No. 10 of the Calendar, wherein it was stated that the declaration of the Prisoner had been taken down in writing before the Custom Darogah, the Court of Foujdaree Adaulut deem it proper to observe that such declarations ought properly be taken before any native Revenue Servant

to be referred. 1.
sent 21st

3/ 486.

16th September 1818

Servant to whom the Magistrate may have granted, under the provisions of Section XXXVI Regulation XI of 1816, the police authority vested in Tahsildars, but that it is not competent to any of the Native Revenue Servants who may be employed under Tahsildars of districts to perform the duties enjoined in the several Clauses of Section XXVII Reg. XI of 1816.

Ordered that a Copy of these proceedings be sent to the Third Judge on Circuit in the Northern Division by Precept requiring him to communicate the same to the Criminal Judge in the Zilla of Masulipatam, in order that he may be prepared to bring to the notice of the Magistrate any instances of the nature here referred to, of an unauthorized assumption of authority on the part of the police Officers.

to be referred. 1.
sent 21st

/ Sent following Precept /

17th September 1818

fifth Section VIII Regulation XV of 1803
that the several prisoners be sent, accom-
panied by a descriptive list of their
names and sentences to the Criminal Judge
in the Zillay of South Malabar.-

Ordered that extract of these
proceedings be sent to the Criminal Judge
in the Zillay of Coimbatore and to the Criminal
Judge in the Zillay of South Malabar for
their information and guidance respectively.-

Sent. AA

Sent following letters
/Here enter A/S

Copies

J.A.

At a Court of the Foujdaree Udalut.-
Present,

Monday
21st September 1818.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.-

Read letter, dated the 8th ultimo,
AA from the 2d Judge on Circuit in the Western
GS Division,- submitting case No. 1 North Malabar
Calendar 3d Quarterly Sessions A.D. 1818.-
/Here enter No. 432./

The Court having maturely
considered the Proceedings held before the
Judge of Circuit the futwas of the Provincial
Law Officer and the futwas of the Cazee-ool-
Coozat and Mooftees of the Foujdaree Udalut
confirm the said futwas of the Cazee-ool
Coozat and Mooftees aforesaid and, in
commutation of the sentence of Deeyut
declared in the Futwas, adjudge the Prisoner
"Tiem Tottatil Raman"
to be imprisoned and kept to hard labor
in irons on the public roads or other public
works for and during the period of twelve
Calendar

28th September 1818.

Calendar month and then released.

Sent following letter

sent 26th

/Here enter A./

Read letter dated the 25th ultimo,

from the 2d Judge of Circuit in the Western

Division, - submitting case No. 18 of North

Malabar Calendar for the 2d Quarterly

Sessions 1818.-

/Here enter No. 459./

sent.

The Court having maturely

considered the proceedings held before the Judge

of Circuit the futwas of the Provincial Law

Officer and the futwas of Cazee ool Coozat

and Mooftees of the Foujdaree Adalut confirm

the said futwas of the Cazee ool Coozat and

Mooftees aforesaid and acquitting the

Prisoner.

"Illatu Amod"

direct that he be released accordingly.

sent 26th

Sent following letter.-

/Here enter B./

The Law Officers of the Court of

Foujdaree Adalut after reciting the substance of the

the charge against the Prisoner, observe that

"although the Crime of false Swearing is proved

"against him, yet inasmuch as no injury resulted

"therefrom to any individual he is not liable

"to punishment."-

In the words here recited the Law

Officers have explained with precision the point on

which the charge for perjury, both according to

the Mohummudan Law and the Regulations,

entirely fails.- The prisoner was charged with having

sworn falsely in having said, in the course of

his deposition, that he had heard one of certain

prisoners accuse other persons of having been

concerned in a certain Robbery.- From such a

hearsay evidence it is obvious that no injury could

possible ensue; or, in other words, that part of the

prisoner's deposition on which the perjury is

charged is not in a matter material to the

issue of the case.-

The Court of Foujdaree Adalut

consider it necessary to call the attention of the

Second Judge of the Court of Circuit in the

Western Division who, it appears, presided at

the Second Quarterly Sessions of 1818 and caused

the prisoner to be committed to take his trial for

perjury

21st September 1818.

perjury, to their proceedings of the 31st January 1814 in which they adverted to the several particulars requisite to be proved in trials for perjury and observed that failure in any one of the points specified in Section IV. Regulation VII of 1811 must be fatal to the prosecution; because the Crime is defined to consist, not in one or more of these particulars, but in all and every one taken together.—

Ordered that extract of these pro=ceedings be sent to the Second Judge of the Court of Circuit in the Western Division for his information and future guidance.—

dent 26th

/Sent following letter C/

Read letter dated the 20th July, from the 1st Judge on Circuit in the Centre Division,— referring Case No 69 Chittoor Calendar 3d Quarterly Sessions AD 1818.

/Here enter No 481/

The Court having maturely considered the proceedings held before the Judge of Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee=ool=Coozat and the Mooftee of the Fouzdaree Udalut confirm the said futwa of the Cazee=ool=Coozat and Mooftees aforesaid and

and acquitting the Prisoner.

"Noor=ood=Deen"

direct that he be released accordingly.—

/Sent following letter D/

dent 28th

It appears, from the record of the proceedings held in this Case, that the Prisoner Noor=ood=Deen was forwarded by the Police Aumeen of the Town of Vellore to the Magistrate in the Zilla of Chittoor.—

As it seems possible, from the absence of all remark with regard to this pro=ceeding, that similar irregularities may have been permitted to pass unnoticed in the Zilla of Chittoor, the Court of Fouzdaree Udalut direct that the attention of the several District Police officers in the Zilla aforesaid be particularly called to Clause Fouth Section XXVII Regulation XI of 1816 which declares that persons charged with having committed offences of the nature described in the First Clause of that Section shall be forwarded direct to the Cremenal Judge of the Zilla.—

Ordered that extract of these pro=ceedings be sent to the First Judge of the Court of Circuit in the Centre Division by Precept desiring him

Criminal Judge of Canara to a precept copy whereof was forwarded by the Circuit Judge under date 31st Ultimo.—

/Here enter No. 498/

With reference to the Court's orders of the 16th Instant the foregoing letter does not require remark.—

Read Return, dated the 14th instant, from the Provincial Court of Circuit in the Southern Division,— to the Court's precept dated 27th Ultimo ordering communication to the Magistrate of Combaconum of certain observations of the Court upon a correspondence forwarded by the Criminal Judge of that Zilla by desire of the assistant Criminal Judge.—

/Here enter No. 500/

Read Return, dated the 14th instant from the Provincial Court of Circuit in the Southern Division,— to the Court's precept dated 26th Ultimo ordering communication to the several Magistrates within their Jurisdiction of the Court's instructions relative to the delegation of Magisterial powers to their assistants.—

/Here enter No. 501/.

Read return, dated the 7th instant from

from the Provincial Court of Circuit in the Centre Division,— to the Court's precept dated 26th Ultimo ordering communication to the Magistrates within their jurisdiction of the Court's observations & instructions relative to the delegation of Magisterial powers to their assistants.—

/Here enter No. 495/

Read letter, dated the 16th instant, from the 1st Judge on Circuit in the Southern Division,— with Copy of Coimbatore Calendar 2d Sessions AD 1818.—

/Here enter No. 496/

N. A.

M

585

21st September 1818.

him to communicate the same to the Magistrate in the Zilla of Chittoor for his information and guidance.—

sent 26th

/Sent following Precept E/

Read again letter dated the 1st Ultimo, from the 2d Judge on Circuit in the Northern Division,— with copy of extract of the Rajahmundry Calendar 1st Sessions A.D 1818.—

/Here enter No 415/

The proceedings held in Case No 11 of the Rajahmundry Calendar 1st Sessions of 1818, stated to be referrible to the Foujdaree Adalut, not having been received;

The Court direct that the Second Judge of the Court of Circuit in the Northern Division be by Precept commanded to send up the Record of the Proceedings held before him in Case No 11 of the Rajahmundry Calendar for the 1st Sessions of 1818 within ten days from the date of the Receipt of the Precept.—

sent 22d

/Sent following Precept F/

Read letter dated the 12th instant, from the 3d Judge on Circuit in the Northern Division,— reporting the Case of a certain prisoner found by him in Confinement in the Zilla Jail at

21st September 1818 at Nellore.—

/Here enter No 499/

The Third Judge on Circuit states that the prisoner in question was one of the persons "under the denomination of Phansegars," who were sent from Salem to be tried before the Court of Circuit at Nellore, that he was tried at the 1st Sessions of 1817 and that the Provincial Law Officer delivered a futwa of acquittal, but that he had been ordered to give security prior to his release.—

Under the circumstances specified by the Third Judge it will be his duty to revise the proceedings held before him in Case No 67 of the Nellore Calendar 1st Sessions of 1817 and to pass sentence in conformity with the principle laid down in the Court's proceedings of the 10th March 1817.—

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division for his information and guidance.—

sent 26th

/Sent following letter G/

Read letter dated the 10th instant from the 3d Judge on Circuit in the Western Division,— forwarding return made by the Criminal

J. U.

At a Court of the Foujdaree Udalut

Present

Thursday
24th September 1818.

Andrew Scott Esqre. ——
Edward Croft Greenway Esqre. } Judges

Read letter, dated the 31st Ultimo,

No.

from the Third Judge on Circuit in the Centre
Division, — submitting Case No 52 Bellary Calendar
2d Sessions AD. 1818

(Here enter No. 480)

Read also Remarks of the Cazee-
-ool-Cozat and Mooftees of the Foujdaree Udalut

(Here enter A)

The Court of Foujdaree Udalut
having maturely considered the proceedings held in
this Case and the opinion of the Law Officers, resolve
to return the Record of the trial to the Third Judge
on Circuit. — The Court consider it to be incumbent
upon them to observe to the Third Judge that,
instead of satisfying himself with simply receiving
the First Prisoner's plea of "guilty" to the charge,
it was his express duty, under the provisions of Clause
First Section XV Regulation VIII of 1802, to cause
the confession of the Prisoner (the same being
always to be received with circumspection and tenderness)

to

to be read aloud in Court; to call upon him to state whether he had any & what matter to offer in his defence and, lastly, to ascertain whether he had any evidence to adduce. — The precipitancy with which this trial appears to have been conducted is utterly irreconcileable with that calmness of deliberation and patience of investigation, which should always mark the proceedings of a Judge of the Court of Circuit, in discharging the high and important duties of his Office. —

It will be the duty of the Third Judge to issue a precept to the Acting Criminal Judge in the Zilla of Bellary, requiring him to call up before him the prisoner Roodrah, to cause the written declaration specified by the Law Officers to be read aloud to the Prisoner in the presence of the Mohummudan Law Officer of the Zilla Court and otherwise to proceed in this respect as noticed in the remarks of the Law Officers of the Fouidaree Udalut. — The Acting Criminal Judge should also be enjoined to hear any thing, which the prisoner may have to offer in his defence, as also any evidence which he may have to adduce, and to annex authentic translations, in English and Persian, of these additional proceedings

proceedings to the original Record, which the Third Judge will retransmit, with the several additional documents here specified, within three weeks from the date of the receipt of the Precept. —

sent R. A. Sent following Precept A/1

11

to be read aloud in Court; to call upon him to state whether he had any & what matter to offer in his defence and, lastly, to ascertain whether he had any evidence to adduce. — The precipitancy with which the trial appears to have been conducted is utterly irreconcileable with that calmness of deliberation and patience of investigation, which should always mark the proceedings of a Judge of the Court of Circuit in discharging the high and important duties of his Office. —

It will be the duty of the Third Judge to issue a precept to the Acting Criminal Judge in the Zilla of Bellary, requiring him to cause before him the prisoner Roodrah; to cause the written declaration specified by the Law Officers to be read aloud to the Prisoner in the presence of the Mohummudan Law Officer of the Zilla Court and otherwise to proceed in this respect as noted in the remarks of the Law Officers of the Foujdaree Udalut. — The Acting Criminal Judge should also be enjoined to hear any thing, which the prisoner may have to offer in his defence, as also any evidence which he may have to adduce, and to annex all translations, in English and Persian, of these several proceedings to the original Record, which the Third Judge will retransmit, with the several additional Documents here specified, within three weeks from the date of the receipt of the Precept. —

24th September 1818.

sent

R. A.

sent following Precept A 1

11

At a Court of the Foujdaree Adalut.

Present,

Monday
28th. September
1818.

Andrew Scott Esqre.
Edward Croft Greenway Esqre. } Judges.

Read letter dated the 16th. inst.
instant, from the Provincial Court of Circuit
in the Western Division, enclosing, by desire
of the Magistrate of Malabar, copy of a letter
from that Officer with reference to
the Court's orders of 26th. ultimo, regarding
the delegation of authority to Assistant
Magistrates.

Ditto

Here enter No. 508.

In a letter dated the 17th. instant,
the Magistrate of Malabar submits to the
consideration of the Court of Circuit the
inconvenience which would result from
an observance of the Circular orders of the
Foujdaree Adalut dated the 26th. ultimo and
the peculiar situation in which he is
placed

"placed" having two Zillahs under him and
"occasionally two Courts of Sessions sitting
"at the same time," and he concludes with
requesting that a reference may be
made to the Court of Foujdaree Adalut
and that he may be authorized to defer
acting according to the tenor of the Precept
until further orders.- The Magistrate
concludes with soliciting the opinion
of the Court of Circuit as to the amount
"of Stolen property he should act upon
"in ordinary cases."

In answer to this letter the
Court of Circuit acquaint the Magistrate
that they have no power to authorize
him to suspend execution of the orders
of the Foujdaree Adalut and that the
question contained in the concluding
paragraph of his letter will be sub-
=mitted for the orders of that Court.

The proceedings of the Court

of Foujdaree Adalut, to which the
Magistrate here refers, contained only
an exposition of the intent and import
of the law, and the orders which were
issued on the same date appeared to be
indispensable in order to the rectification
of errors which were understood generally
to prevail throughout the provinces.-
The Court of Foujdaree Adalut pointed
out the line of conduct which, according
to the obvious interpretation of the
Regulations, the Magistrates were
bound to pursue, and it is not compe-
=tent to the Court to authorize any the
smallest deviation from any part of
that Code by which the several
authorities, both Civil and Criminal, are
to regulate their proceedings.-

The ground on which the
Magistrate of Malabar solicits an exemption
from the operation of the particular rule

the

28th September 1818.

the observance of which was enjoined in the Court's orders of the 26th ultimo is the "peculiar situation in which he "is placed, having two Zillas under him "and occasionally two Courts of Sessions "sitting at the same time." The very peculiar circumstances here stated by the Magistrate are unquestionably deserving of attention; he is placed in a situation which could not be contemplated in the Regulations and for which it is not possible, therefore, that any provision could be made. It is a situation, however, to the inconveniences of which the Higher Court are unable to apply any remedy, since the provisions of the regulations are positive, and their operation general and indiscriminate. And supposing, indeed, that the Regulations did admit in any case of a partial application, the expediency of such exception would, in the present instance, be liable to be questioned: since it follows, from the

28th September 1818

the statement made by the Magistrate of Malabar, that one of the two Zillas ought, in his opinion, to be placed under the exclusive charge of an Assistant, who would thus be left to the exercise of uncontrolled powers and, anomalous as it may appear, would possess an authority co-ordinate in every respect with that of the Magistrate.

Under these circumstances it becomes the duty of the Court to submit the letter of the Magistrate of Malabar for the consideration of the Right Honorable the Governor in Council, with whom alone rests the power of determining as to the mode of providing a remedy for the inconvenience which has been brought, by the Magistrate, to the notice of the Foujdaree Adalat.

With reference to the question contained in the concluding paragraph of the Magistrate's letter, the Court of

Foujdaree

Sept. to 1818

28th September 1818

1

Faujdaree Udalut have to observe that as they do not consider themselves to be authorized to fix that which the Regulations have left undetermined. The words of the Regulation clearly limit the jurisdiction of the Magistrate to thefts of a trifling amount, and the exercise of the power thus vested in the Magistrate may safely be left to the discretion of that Officer whose orders, in such cases, are liable to be revised by the Judge of the Court of Circuit.

Ordered that extract of this proceedings be sent to the Provincial Court in the Western Division by precept, desiring them to communicate the same to the Magistrate of Malabar for his information and guidance.

Sent following precept

/Here enter A/

Ordered also that the foregoing letter and extract of this proceedings

28. September 1818.

proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.

R. D.

Sent following letter.

/Here enter B./

J. U.

At a Court of the Foujdaree Udalut

Present

Tuesday 29th September 1818.— Andrew Scott Esqre. Edward Croft Greenway Esqre. } Judges.

Read letter, dated the 4th Ultimo, from the 1st Judge on Circuit in the Centre Division,— submitting trial No. 75 Chittoor Calendar 3d Quarterly Sessions A.D. 1818.—

/Here enter No. 489/

The Court having maturely considered the proceedings held before the First Judge of Circuit, the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Cozat and Mooftees of the Foujdaree Udalut confirm the said futwa of the Cazee-ool-Cozzat and Mooftees aforesaid and acquitting the Prisoner "Sadooram" direct that he be released accordingly.—

/Sent following letter/

Ford 1 Col.

The Court of Foujdaree Udalut having passed Sentence in the foregoing Case, deem it necessary to observe, with reference to the nature of the charge preferred against the prisoner, that

that not a tittle of evidence appears upon the record tending to prove that the prisoner committed the offence of forgery with which he was charged.- The evidence, as far as it goes- (for, as noticed by the law Officers in their Futwa, it fails in a point very material to the issue of the case) is only to the fact of uttering a forged paper knowing it to be forged.-

The second witness, Singaracharry, after stating briefly before the Court of Circuit the extent of his personal information touching the paper in question, proceeded to detail the substance of the examination of the first witness before the Assistant Judge, as also the purport of certain interrogatories put by the Assistant Judge to the Prisoner in this Case, the then Plaintiff before the Zilla Court.- This part of the witness's deposition is merely hearsay and consequently of no validity in law.- It was the duty of the Judge presiding at the trial to check the introduction of such useless matter and to enjoin the witness to confine himself to the recital of those particulars only of which the witness was personally informed and which might be considered by the Judge to be material to the issue

sent to Collr

sue of the trial.-

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Centre Division for his information and future guidance and that he be by precept commanded to communicate the first part of these proceedings for the information and future guidance of the late acting Criminal Judge in the Zilla of Chittoor.-

/Sent following Precept B/

Read return, dated the 21st instant, from the 2d. Judge on Circuit in the Northern Division,- to the Court's precept dated 31st July last ordering communication to the Criminal Judge in the Zilla of Rajahmundry of the Court's directions relative to the safe custody of the prisoner in Case No. 2 Rajahmundry Calendar for Sessions AD 1818. The Criminal Judge returns that a further period is requisite for carrying into effect the orders of the Sudder Adalut.-

/Here enter No. 514/

It appears that in the transcription of part of the Court's proceedings of the 31st

29th September 1818.

that not a tittle of evidence appears upon the record tending to prove that the prisoner committed the offence of forgery with which he was charged.— The evidence, as far as it goes (for, as noticed by the law Officers in their Futwa, it fails in a point very material to the issue of the case) is only to the fact of uttering a forged paper knowing it to be forged.—

The second witness, Singarachary, after stating briefly before the Court of Circuit the extent of his personal information touching the paper in question, proceeded to detail the substance of the examination of the first witness before the Assistant Judge, as also the purport of certain interrogatories put by the Assistant Judge to the Prisoner in this Case, the then Plaintiff before the Zilla Court.— This part of the witness's deposition is merely hearsay and consequently of no validity in law.— It was the duty of the Judge presiding at the trial to check the introduction of such useless matter and to enjoin the witness to confine himself to the recital of those particulars only of which the witness was personally informed and which might be considered by the Judge to be material to the issue

29th September 1818

Sent 1 Ext.

issue of the trial.—

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Centre Division for his information and future guidance and that he be by precept commanded to communicate the first part of these proceedings for the information and future guidance of the late acting Criminal Judge in the Zilla of Chittoor.—

/Sent following Precept B/

Read return, dated the 21st instant, from the 2d Judge on Circuit in the Northern Division,— to the Court's precept dated 31st July last ordering communication to the Criminal Judge in the Zilla of Rajahmundry of the Court's directions relative to the safe custody of the prisoner in Case No 2 Rajahmundry Calendar 1st Sessions AD 1818. The Criminal Judge returns that a further period is requisite for carrying into effect the orders of the Foujdaree Adalut.—

/Here enter No 514/

It appears that in the transcription of part of the Court's proceedings of the 31st "

29th September 1818.

31st July last, the words — "to forward the" — "Prisoner to the Criminal Judge" have been omitted — the Precept ought to have closed with the following words viz. "It will be the duty of the "Criminal Judge to forward the Prisoner to the Criminal "Judge in the Zilla of Masulipatam, in order to his "being confined in the general hospital ordered to be "established at the Sudr Station for the reception of "Lunatic prisoners within the Division." — A further time being required by the Criminal Judge in the Zillah of Rajahmundry for performing the exigence of the precept and a second precept having become necessary in consequence it is considered sufficient to notice the omission which has occurred & to comply with the request preferred —

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Northern Division by Precept securing him to communicate the same to the Criminal Judge in the Zillah of Rajahmundry for his information and guidance —

sent Precept

R. D. / Sent following Precept C/S

At a Court of the Foujdaree Adaulut

Friday 2d October 1818.

Present

Andrew Scott, Esquire
Edward Croft Greenaway, Esquire } Judges

At

C/S

Read letter dated the 9th July last, from the First Judge of the Court of Circuit in the Centre Division — submitting trial No. 15. Chittoor Calendar — 3d Quarter Sessions A. D. 1818.

/Here enter No. 1490./

The Court having matured & weighed the proceedings held before the First Judge of the Court of Circuit, the futwas of the Law Officers and the futwas of the Cazee ul Cozat and Mooftee of the Foujdaree Adaulut confirm the said futwas of the Cazee ul Cozat and Mooftee aforesaid and acquitting the prisoners,

1st "Venkataroyer"
2d "Nauchchpillay" and
3d "Andoovier"

dated

2d October 1818.

direct that they be released accordingly.

/Sent following letter &c/

The only evidence against the prisoners in this case is that which is contained in their respective declarations. The substance of these several declarations is recited in the fiscal, and according to the statements therein contained, many particulars of which are confirmed by the witnesses who appeared before the Court of Quarterly Sessions — the fact of the prisoners, at least not appear that the deed was framed with a fraudulent intention or in any respect to the prejudice of another mans right.

The prisoners in this case were forwarded by the Police Officer of the District of Palon to the Magistrate of the Zilla — — — — — with reference to the orders which were issued on this subject on the 21st ultimo. of Tinjore dated Loom & messages

in the present instance, to direct that the irregularity be brought to the notice of the Magistrate in the Zilla of Chittoor.

Ordered that extract of these proceedings be sent to the first Judge of the Court of Circuit in the Carnatic Division by precept, enjoining him to communicate the former part to the late Acting Criminal Judge in the Zilla of Chittoor, by whom the prisoners were committed to take their trial, for his information and future guidance, and to communicate the latter part to the Magistrate of the Zilla of Chittoor for the information of that officer.

/Sent following Precepts &c/

Read letter, dated 23d ultimo from the Provincial Court of Circuit on the Southern Division, — forwarding letter addressed to the Register of the Zillahs dated by the Magistrate of Tanjore, explanatory of his late correspondence with the Assistant Criminal Judge —

of

of Combaconum.

(Have entered N. 518)

The Magistrate of Combaconum states, in the fourth paragraph of his letter, that he regrets to find that he erred in considering the Criminal Judge to be authorized to prohibit his Assistant from corresponding with the Magistrate's department without the knowledge or concurrence of his Superior. With reference to this observation the Court deem it proper to remark that, in their proceedings of the 27th August, they recorded their opinion that all correspondence should be carried on between the Heads of the two Departments or the persons in charge of such departments; and the Court do not understand how the Magistrate could have inferred from this part of their proceedings, which was communicated for his information, that the proceedings of the Assistant to the Criminal Judge was regarded

by

2d October 1818.

by the Foujdaree Adaulut as otherwise than irregular.

Referring to the remarks contained in the fifth and sixth paragraphs of the Magistrate's letter, the Court have to observe, in the first place, that an error in point of form in the proceedings of the Village police officer could not be deemed of itself sufficient to authorize the liberation of the parties who had been forwarded to the Criminal Judge; and, in the second place, that the evidence alleged to have been used by the Moorsif was not pressed on the notice of the Magistrate. It was a manifest irregularity in the proceedings of a Village police officer which was brought to the cognizance of the Magistrate, and any defect in the information received from the Department of the Criminal Judge might have been remedied by a further communication.

The

The circular notice to the District police officers alluded to in the Seventh paragraph of the Magistrate's letter meets the entire approbation of the Court, as evincing the anxious desire of the Magistrate to ensure a due observance, on the part of the police officers under his authority, of the provisions of the Regulations, and constitutory instructions

* very act which the Court considered to be his duty ~~that it will not put him in his power to~~

Ordered that extract of these proceedings be sent to the Provincial Court of Circuit in the Southern Division, by precept desiring them to communicate the same to the Magistrate in the gaols of Combaconum for his information.-

Sent 5th

/Sent following Precept/

Read Return, dated the 14th ultimo, from the Provincial Court of Circuit in the Western Division, to the Court's precept of the 26th August,- ordering communication to the Magistrates within their jurisdictions of the Court's instructions relative to the delegation of Magisterial powers to their Assistants.

/Here enter No. 503./

Read Return, dated the 14th ultimo, from the Provincial Court of Circuit in the Northern Division, to the Court's precept of the 26th August,- ordering communication to the Magistrates within their jurisdictions of the Court's instructions relative to the delegation of Magisterial powers to their Assistants.

/Here enter No. 504./

RA

AH

GLS

Copie Ck

At a Court of the Foujdaree Udalut.-
Present,

Monday
5th October 1818

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read letter dated 24th ultimo from the Assistant Criminal Judge in charge of the Zillah of South Malabar,- reporting a case of gang Robbery and requesting authority to offer pardon to two individuals under the provisions of Section XX Regulation VII of 1802.-

All
E.C.S

Here enter No. 527.

The Court having maturely considered the circumstances reported in the letter from the Assistant Criminal Judge resolve to submit his application to Government with their recommendation that the Right Honorable the Governor in Council may be pleased to authorize a tender of pardon to Palcat Koonjoo and Choonant Mayoodoo on the conditions specified in Section XX Regulation VIII of 1802.

Ordered

21st September 1818

5th October 1818.

Ordered, that the foregoing letter and extract of these proceedings be sent to the Secretary to Government in the Judicial Department, and to request that he will submit the same for the orders of the Right Honorable the Governor in Council.-

Sent following letter.

/Here enter A/S

ent.

7. 16.

Copies 25

At a Court of the Toujdaree Adalut.

Present

Wednesday 7th October 1818.

Andrew Scott, Esquire
Edward Croft Greenway Esquire } Judges

G.G.

A1

Read letter, dated the 11th August last, from the Third Judge on Circuit in the Centre Division, - submitting Cases Nos. 5, 14 & 24 Cuddalore Calendar. - 2d Sessions A.D. 1818.

/Here enter No 4/1

The Court having maturely weighed the proceedings held before the Judge on Circuit in the three cases aforesaid, the futwas of the Provincial Law Officer and the futwas of the Cazee-ool-Coozat and Mooftee of the Toujdaree Adalut, confirm the said futwas of the Cazee-ool-Coozat and Mooftee aforesaid and, under the provisions of Clause Second Section IV. Regulation XV of 1803, adjudge the Prisoners

Surgeon

"Singuno Nursecquandoo" and
"Vencatarammoodoo."

to be imprisoned and transported to Prince of Wales's island; there to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of their natural lives respectively.-

Sent following letter A.J

The first observation which the Court of Vaujdaree Adaulut deem it proper to make respecting the proceedings held in these three trials before the Court of Circuit is that the Provincial Law Officer should have been required to deliver a Jubna in each separate trial as applicable to the circumstances of the case.- A strict observance of the rule enjoined in this respect under the general regulations is indispensable in order to ensure a clear and perspicuous statement of the evidence on record.-

On examining the proceedings held before the Judge on Circuit in case No. 5 of the Calendar, the Court observe that

after

after hearing the evidence of two witnesses for the prosecution, the Judge called upon the Prisoner, Nursecquandoo, to state what he had to say in his defence; subsequently to which four other witnesses were heard on the part of the prosecution.- This mode of proceeding was obviously irregular and improper; the prisoner had pleaded the general issue, and in trying the accused on that issue it was imperative on the Judge first to hear all the evidence on the part of the prosecution, whether to the actual commission of the offence with which the prisoner was charged, or to any previous confession thereof, and then to call upon the accused to state what he might have to offer in his defence.-

In the proceedings held before the Court of Circuit in case No. 14. of the Calendar the Court of Vaujdaree Adaulut observe an omission similar to

that

"Singuno Nursecquandoo" and
"Vencataramoodoo."

to be imprisoned and transported to Prince of Wales's island; there to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of their natural lives respectively.-

Sent following letter A.

The first observation which the Court of Toujdaree Adaulut deem it proper to make respecting the proceedings held in these three trials before the Court of Circuit is that the Provincial Law Officer should have been required to deliver a petition in each separate trial as applicable to the circumstances of the case.- A strict observance of the rule enjoined in this respect under the general regulations is indispensable in order to ensure a clear and perspicuous statement of the evidence on record.-

On examining the proceedings held before the Judge on Circuit in case No. 5 of the Calendar, the Court observe that after

after hearing the evidence of two witnesses for the prosecution, the Judge called upon the Prisoner, Nursequandoo, to state what he had to say in his defence; subsequently to which four other witnesses were heard on the part of the prosecution.- This mode of proceeding was obviously irregular and improper; the prisoner had pleaded the general issue, and in trying the accused on that issue it was imperative on the Judge first to hear all the evidence on the part of the prosecution, whether to the actual commission of the offence with which the prisoner was charged, or to any previous confession thereof, and then to call upon the accused to state what he might have to offer in his defence.-

In the proceedings held before the Court of Circuit in case No. 14. of the Calendar the Court of Toujdaree Adaulut observe an omission similar to that

that which was noticed by the Court on the 24th ultimo in their remarks on the proceedings of the Judge on a number of the Bellary Calendars. Satisfied with receiving the general plea of "guilty" on the part of the first Prisoner, the Judge presiding at the trial did not proceed to hear his confession as enjoined in Clause First Section XV Regulation VII. of 1802. The witnesses for the prosecution in this case depose that the said first prisoner was concerned in the commission of the offence specified in the charge.

In case N. 24. the prisoner Vencatacamaden, although not distinctly put on his defence, was interrogated as to the correctness of his declaration before the Criminal Judge, before the Judge on Circuit proceeded to hear the evidence for the prosecution. - After the observations which have been recorded on the proceedings held on case N. 5 the Court deem it

necessary only to bring this irregularity to the notice of the Judge on Circuit.

The Court of Foujdaree Udalut, adverting to the various grounds on which the prisoners Nurseegaudoo and Vencatarawoodoo have been declared liable to Ooksubut, have not deemed it necessary to cause any of the records to be returned to the Third Judge of the Court of Circuit; but they trust that the remarks which have been recorded on the present occasion will ensure a diligent observance hereafter of the regular forms of trial, a disregard of which must always impede, and sometimes frustrate the attainment of the ends of justice.

With respect to the examinations of the prisoners held before the Criminal Judge of Cuddapah, the Court of Foujdaree Udalut have to observe that many of them are in the nature of cross-examinations. The Court are satisfied that it is necessary only to bring this circumstance to the notice of the Criminal Judge in order to prevent the repetition of a

practice

practice which is manifestly improper as giving
an anxiety to make the accused criminate
themselves and as inconsistent with the provisions
of the Regulations which enjoins Criminal
Judges to be careful that all confessions
made by prisoners are free and voluntary.

In conclusion the Court have
it in charge to call the attention of the Criminal
Judges in the Zillas of Cuddapah & Chittoor
part of their circular orders of the 17th
January 1815. which enjoins the mode to be observed
in recording the several particulars specified
in the Clause Second Section XVIII. Regulation VII of
1802. instead of inserting in the words of the Regulation
details the questions put to parties & answers
relative thereto.

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Carnatic Division for his information and future guidance, and that he be directed to communicate the Letter first to the information and future guidance of

the Criminal Judge in the Zilla of Cuddapah.

/Sent following Precept &c/

Read letter, dated the 3d. ultimo, from the First Judge on Circuit in the Southern Division, - submitting a/c No. 8. Combaconum Calendar - 2d. Sessions A. D. 1818. -

/Here enter No. 474/

The Court having maturely considered the proceedings held before the Judge on Circuit, the pleas of the Prisoner and Law Officer, and the pleas of the Cazee and Cazee ul Cozat and Mooftee of the Fouzdaree Adawlut confirm the said pleas of the Cazee ul Cozat and Mooftee aforesaid and acquitting the prisoner

"Conjeuvrum"

direct that he be released accordingly. -

/Sent following Letter &c/

Read letter, dated the 26th. ultimo, from the Criminal Judge in the Zilla of North Malabar, - recommending the tender of a conditional pardon to two persons concerned

in

7.th 7.th October 1818.

in a murder and other offences.

/Here enter

In submitting the present

extract to the Court of Sessions Malabar the

Criminal Judge considers it to be neces

that, in addition to a transfer of jurisdiction

two persons mentioned in the letter or ex

Citizen of these Districts declaring all the circum

stances within their knowledge relative

the case which forms the subject of the

reference, & contradictions evidently should

tendered to them in the other case of

robbery in which they appear to have

been concerned.

The offence of joinder contemplated

in Section XX Regulation VIII of 1802 must be limited

to the particular case in which the evidence

of any of the suspected accomplices may

be considered to be necessary in order to the

suspension or conviction of the principal

offender or offenders, and cannot be held

to exempt the parties from amenability to the

Courts

3/ 7.th

7.th " Oct.r 1818. Courts of justice for any other act or acts in

which they may have been concerned.-

The Court direct that extract

of these proceedings be sent to the Criminal

Judge in the Zilla of North Malabar

Sent 7.th for his information and guidance.-

/Sent following letter D:/

Read Return, dated the 30.th

ultimo, from the first Judge of the Court of

Circuit in the Centre Division, to the Courts

precept of the 21.st ultimo, - ordering commu-

nication to the Magistrate of Chittoor of

the Courts order that the attendance of

the District Police Officers be called to

provisions of Clause fourth Section XXVII Re-

gulation XI. of 1816.-

/Here enter N.o 532./

Read letter, dated the 23.d ultimo

from the first Judge of the Court of Circuit in the

Northern Division, - with copy of Modification

Calendar 3.d Quarterly Sessions A.D 1818.

to be reserved. 1.

/Here enter N.o 526/

A.T.

F. C.

At a Court of the Foujdaree Udalut

Saturday
10th October 1818

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

M.
EC

Read Returns, dated the 23d Ultimo,
from the 3d Judge on Circuit in the Western
Division,- to the Courts precept dated 16th September
ordering transmission of Copy of futwa in Case
No 1 Canara Calendar 2d Sessions AD 1818 and
communication to the Magistrate of Canara of
the Courts observations on the neglect of the
provisions of the Regulations shewn by his
Police Officers:-

/Here enter No. 534/

The Court of Foujdaree Udalut
having considered the futwa of the Provincial Law
Officer which accompanies the return direct that
the following Question be put to their Mohum-
medan Law Officers.-

/Here enter A/

To the above Question the Law
Officers of the Foujdaree Udalut have delivered an

Answer

Answer stating that "the penalty of Khudd is barred "by such subsequent denial and that the Offenders "are liable to Ookoobut at the discretion of the Hakim."-

The Court direct that the opinion of the Law Officers of the Fouzdaree Adalut be sent to the Third Judge on Circuit in the Western Division, in order that it may be communicated to Mohummud Yoosuf, the Mooftee of the Provincial Court.- According to the terms of the Futwa delivered in the present case by the Mooftee aforesaid, the Judge on Circuit was left to exercise his discretion, in regard to the measure of punishment to be adjudged against the third prisoner who is convicted of having ~~commanded~~ the commission of the theft in question, to the full extent allowed by the Regulations; whereas the Sentence of "slight "Ookoobut" pronounced against the first and Second Prisoners, who are convicted of having committed the theft, did, according to the strict letter of the expression, limit the punishment against them to a measure very inadequate to the nature of their offence.-

Ordered

Ordered that Extract of these

A.

Where persons charged with theft may in the first instance have confessed that they committed the offence laid to their charge and may subsequently plead not guilty before the Court of Circuit, to what sentence do they become liable under the Mohammedan laws?-

A. M.

Circuit,
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Answer stating that "The penalty of Budd is barred

1

To Gentn of the Law Officers &c.

Ordered that an Extract of these proceedings be sent to the Third Judge on Circuit in the Western Division for his information and guidance.—

Sent 13th

/Sent following letter A/

Read letter, dated the 29th Ultimo from the 3d Judge on Circuit in the Western Division,— reporting for the instructions of the Court the Case of a prisoner brought before him for trial under Symptoms of insanity,

/Here enter A. 543/

The Court of Foujdarce Udalut having maturely weighed the evidence taken before the Third Judge on Circuit to the fact of the insanity of the prisoner, Cothan Veeran, and having considered the fatal act of violence which appears to have been committed by the Prisoner under the influence of such insanity, deem it proper to direct that the said Prisonier, Cothan Veeran, be sent to the Criminal Judge in the Zilla of North Malabar, in order to his being confined in the general hospital established at Tellicherry for the reception of Lunatic prisoners within the Division

these

these

these

10th October 1818

Division and that he be on no account released without the permission of the Court of Foujdaree Udalut to be obtained through the Court of Circuit.—

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Western Division by Precept desiring him to communicate the same to the Criminal Judges in the Zillas of North and South Malabar respectively for their information and guidance.—

Sent 13th

/Sent following Precept B/

Read return dated the 29th ultimo from the 3d Judge on Circuit in the Northern Division,—to the Court's precept dated 15th ultimo ordering communication to the Criminal Judge of Nellore of the Court's observations upon his declared inability to furnish a translation required by the Court of Circuit.—

/Here enter No. 536/

Read return, dated the 29th ultimo from the 3d Judge on Circuit in the Northern Division,—to the Court's precept dated 11th ultimo ordering

F. W.
10th October 1814

ordering communication to the Criminal Judge in the Zilla of Nellore of the Court's observations upon his return to a precept issued by the 3d Judge on Circuit Northern Division.—

/Here enter No. 535/

Read return, dated the 3d instant, from the 1st Judge of the Court of Circuit in the Centre Division,—to the Court's precept dated 29th ultimo ordering communication to the Criminal Judge of Chittore of the Court's observations on Case No 75 of Chittore Calendar 3d Quarterly Sessions AD 1818.—

R. S. /Here enter No. 540/

11

EdS

F. C.

At a Court of the Foujdaree Adaulut-
Present,

Wednesday 14th October 1818.- Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.-

Read return, dated the 2d ultimo, from the 3d Judge on Circuit in the Centre Division,- to precept dated 16th ultimo, ordering transmission of copy of the Futwas in cases Nos. 5. 8, 17, and 38, Bellary Calendar 2d Sessions A.D. 1818, and communication to the acting Criminal Judge and Magistrate of Bellary of the Court's observations on certain cases in the late Calendar.-

/Here enter No. 551./

Ordered

On examining the futwas, which have been delivered in Cases Nos. 5, 8 and 38 of the Bellary Calendar, the Court observe, that the law Officer has declared in general terms, that the charges against the prisoners are not supported by evidence, and that the prisoners should therefore be set at liberty- Under the

the opinions delivered in these futwas, it was not competent to the Judge presiding at the trials, except on the ground of the bad character of the prisoners, as shewn on the records, to call upon them to give security for future good behaviour.— It will be the duty of the Third Judge of the Court of Circuit, therefore, to revise the proceedings held before him in the three cases aforesaid and, unless it shall appear, On the records of the trials, that the prisoners are persons of bad character, to direct that they be set at liberty.—

In the futwa, delivered in case No. 17 of the Calendar the Provincial Law Officer declares, that "Shoobah-i-Dirjdee," or suspicion of theft attaches to the Second Prisoner Lasaroo who has been sentenced to three years imprisonment and hard labour. The sentence so passed by the Court of Circuit is not authorized by the Regulations, it being expressly declared in Clause Sixth Section II Regulation XII of 1807 that no punishment whatever is to be inflicted on suspicion only.—

14th October 1818.

only.— It becomes necessary, therefore, that the Third Judge should revise the proceedings held before him in the case aforesaid and, unless he shall disapprove of the futwa delivered in the case, to direct that the prisoner be released, conditionally or unconditionally, as shall to him appear to be expedient.—

In making return to the Court's precept of the 16th ultimo, the Third Judge has not adverted to that part of the Court's orders, which relates to the proceedings held before the Court of Circuit in Case No. 43 of the Bellary Calendar.— The Court direct therefore, that the Third Judge be called upon to state, whether the husband appeared before the Court of Circuit, and if not whether orders have been issued for the enlargement of the prisoners.—

Ordered, that extract of these proceedings be sent to the Third Judge on Circuit in the Centre Division

for

14th October 1818.

for his information and guidance -

Sent following letter.-

Last 16th

(Here enter A.)

Read return, dated the 30th ultimo,

from the 2d Judge late on Circuit in the Northern

Division, - to precept dated 31st August, ordering

communication to the several Judges and

Magistrates of the Court's observations upon the

late Circuit report of the 2d Judge.-

(Here enter No. 545.)

Read return, dated the 2d instant,

from the 3d Judge on Circuit in the Centre

Division, - to precept dated 16th ultimo, ordering

communication to the Criminal Judge of

Cuddapah of the Court's observations on case

No. 32 Cuddapah Calendar 2d Sessions A.D. 1818.

Here enter No. 552.

Read return, dated the 8th instant,

from the 3d Judge on Circuit in the Northern

Division, - to precept dated 16th ultimo, ordering

communication to the Criminal Judge of Madabhushi

of the Court's observations on the Calendar of

Guntoor

2/

JR

14th October 1818.

Guntoor prisoners, tried by the Court of Special

Sessions.-

(Here enter No. 549.)

Read letter, dated the 3d instant,

from the 1st Judge on Circuit in the Southern

Division, - with copy of Madura Calendar

2d Sessions A.D. 1818.-

(Here enter No. 548.)

Read letter, dated the 2d instant,

from the 1st Judge of the Court of Circuit

in the Northern Division, - reporting certain

measures that have been taken for the

accommodation of invalid prisoners.-

(Here enter No. 550.)

No. 4.

Read letter, dated the 3d instant,

from the Acting 3d Judge on Circuit in the

Southern Division, - with copy of Trichinopoly

Calendar 4th Quarterly Sessions A.D. 1818.-

(Here enter No. 547.-)

RA.

EC

M

Seven

At a Court of the Zoujdaree Adalut

Present,

Thursday 13th October 1848.

Andrew Scott Esqre
Edward Croft Greenway Esqre
} Judges

Read letter, dated the 30th ultimo,

16

E.C.G.

M

from the 2d Judge of the Court of Circuit in the Western Division, referring for the decision of this Court a question regarding the mode to be adopted for obtaining attestation of confessions.-

(Here enter No. 544)

The present reference has arisen out of a petition which was presented to the Judge presiding at the Quarterly Sessions by one Wadakandy Coonhamod praying to be released from confinement into which he had been ordered by the Criminal Judge in the Zillah of North Malabar for refusing to attest a confession of robbery.- The petition was referred to the Criminal Judge who stated that in consequence of the positive refusal

of

of the party, he had ordered him to pay a fine
of ten Rupees or to be confined for twenty
days. The Criminal Judge represented the
difficulties which he had experienced in
procuring witnesses to the confessions of
prisoners, the servants of Government are
prohibited, not, as the Criminal Judge
erroneously observes, under "the orders of the
"Sudr Foujdaree Court," but by the provision
of the Regulations from attesting such
confessions, and he concluded with stating
that "within the last two months he had
"no less than 39 confessions in seven cases
"of Gang robbery and 4 confessions in two
"cases of murder most of which had been
"attested by persons who had objected to take
"any part in the proceedings."

In issuing an order for the
payment of a fine in this case commuted
if not paid, to a definite period of imprison-
=ment, the Criminal Judge inquestionably
exceeded the limits of his authority, inas-

15th October 1818.

as the Regulations do not provide any
penalties for a refusal on the part of
individuals to attest confessions or confirmations
of former confessions made before the Courts
of Criminal Judicature. The circumstances
detailed, however, by the Criminal Judge of
North Malabar tend to shew the ill
effects which have resulted from the
introduction into the Regulations of 1816
of the clauses noticed by the Court in their
proceedings of the 31st August last, and the
Court have deemed it their duty, therefore,
to prepare the draft of a Regulation for
rescinding the clauses in question which
they resolve to submit for the consideration
of the Right Honorable the Governor in
Council.

Ordered that the letter from
the Second Judge of the Court of Circuit
in the Western Division be submitted with
Draft of a Regulation and extract of
these proceedings to the Secretary to
Government

Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.

sent 16th

/Sent following letter A/

Ordered also that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Western Division by Precept desiring him to communicate the same to the Criminal Judge in the Zilla of North Malabar for his information.-

/Sent following Precept B./

The Deputy Register represents to the Court that no return has been received to the Court's precept dated the 2d. ultimo enjoining the Third Judge on Circuit in the Central Division to send up copies of the Futwas delivered in cases Nos. 10, 17, 21, 28, 39, 40, 41, 42, 44, and 47 of the Cuddapah Calendar 2d Sessions of 1818.-

Ordered that extract of these proceedings be sent to the 3d. Judge on Circuit in the Centre Division and that he be by

J. U. 15th October 818

by precept commanded to explain the cause why he has not obeyed the exigence of the precept of the 2d. ultimo.-

Return to the said precept to be made within 5 days from and after its receipt.-

sent 16th

/Sent following Precept C/

618 R. A.

Read letter, dated the 6th instant, from the 3d. Judge on Circuit in the Western Division, enclosing returned warrant for execution of Pandee and Hoovas prisoners in case No. 4 Canara Calendar 2d Sessions

No A.D. 1818.-

/Here enter No. 535./

Seen

At a Court of the Foujdaree Udalut.

Present,

Saturday
17th October 1818

Andrew Scott Espre.
Edward Croft Greenway Espre. } Judges.

E.C.S.

Read letter, dated the 7th ultimo,
from the 1st Judge on Circuit in the Centre
Division, - submitting case No. 43 Chittoor Calendar
3 Quarterly Sessions A.D. 1818.

/Here enter No. 520./

The Court having maturely
considered the proceedings held before the Judge
of Circuit, the futwa of the Provincial Law
Officer and the futwa of the Cazee ool Coozat
and Mooftee of the Foujdaree Udalut confirm
the said futwa of the Cazee ool Coozat and
Mooftee aforesaid and under the provisions
of Section XVII Regulation VIII of 1812, adjudge
the Prisoners

1st "Yerroogan"
2d "Pared Chendregum" and
3d Chinna Chendregum

to suffer death by being hanged at the
usual

usual time and place of execution.—

Sent following letter &c/

Among the papers delivered to the Court of Quarterly Sessions by the Criminal Judge in the Zillas of Chittoor are certain examinations which would appear to have been taken before the District Police Officers, but which are not attested by the signature of the Officer before whom they may have been taken.— The Court direct that this circumstance be brought to the notice of the Magistrate of the Zilla in order that he may enjoin the several District Police Officers under his authority invariably to attest with their signatures the several documents which they may from time to time forward to the Criminal Judge under the provisions of Section XXVII Regulation XI. of 1816.—

When the prisoners were sent by the Police Officers to the Assistant Magistrate the irregularity of which proceeding has been noticed by the Court in their Remarks in former numbers of the Chittoor Calendar, that Officer caused

17th October 1818.

caused their declarations before the Police Officers to be read aloud to them in the first instance, and it was not until they had confirmed these their former declarations, that the Assistant Magistrate proceeded to interrogate them respecting the offence laid to their charge.— This mode of proceeding is irregular and improper: in all such cases an enquiry should be instituted de novo into the circumstances of the charge, and it is only on the completion of the examination of the prisoners touching the charge that they should be interrogated as to the declarations which they may have made before the Officers of Police.—

Many of the questions proposed to the prisoners by the Assistant Magistrate did not bear in any degree on the charge preferred against them, but related exclusively to matters which would properly be taken into consideration on their being brought before the Criminal Judge of the Zilla.—

When

17th October 1818.

When the Second Prisoner was put on his defence before the Court of Quarterly Sessions the Judge presiding at the trial addressed him in the second interrogatory as follows.- "Describe "the murder- how was it perpetrated." The Court of Foujdaree Adalut are satisfied that it is not necessary for them to make any comment on these words in order to point out their utter inconsistency with that tenderness for the accused which should always mark the proceedings of a Judge of the Court of Circuit.-

Ordered, that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Centre Division for his information, and that he be by precept enjoined to communicate the necessary point to the Magistrate of the Zilla of Chittoor, in order that the requisite communication may be made to his Assistant, and that instructions may be issued by the Magistrate to the District Police Officers under his authority for their information and guidance.-

(Sent following Precept to Board

sent 22

17th October 1818.

Read letter, dated the 12th August last, from the 3d Judge on Circuit in the Centre Division, submitting trial No 4 Cuddapah Calendar 2d Session A.D. 1818.-

(Here enter No. 491.-)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas of the Provincial Law Officer and the futwa of the Cazee ool Coozat and Mooftee of the Foujdaree Adalut confirm the said futwas of the Cazee ool Coozat and Mooftee aforesaid and, under the latitude allowed by the sentence of Cohoobut, adjudge the first Prisoner

Pagadala Nareegandoo

to be imprisoned and transported to Prince of Wales's Island, there to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of his natural life.-

and the Court acquitting the Second Prisoner "Moohoo Nursoo" direct that he be released accordingly.-

(Sent following Letter to

sent 22

among

Among the papers delivered
this case to the Court of Circuit by the Crimi
Judge in the Zilla of Cuddapah is a declar
which would appear to have been made
by the Prisoner, Narangandoo, before the
District Police Officer, but which is no
attested by the signature of the Officer before
whom it may have been taken.- The Court
direct that this circumstance be brought to
notice of the Magistrate of the Zilla, in order
that he may enjoin the several District
Police Officers under his authority invariably
to attest with their signatures the several
documents which they may from time to time
forward to the Criminal Judge under the
provisions of Section XXVII Regulation XI
of 1816.-

The omission on the part of the
Judge presiding at the trial to examine any
witnesses as to the subject matter of the
declaration in question, is noticed in the
futwas of the Law Officers, and the Court
trust that the Third Judge will see the ne
of

of guarding against similar omissions in his future
proceedings.

The Second Prisoner, Mookoo Nursoo
was charged with being an accessary after
the fact in having harboured the first prisoner
Narangandoo, and yet the greater number of
the witnesses for the prosecution do not depose
to this fact, but to the fact of his having caused
Narangandoo to be murdered — a charge on which
the prisoner Mookoo Nursoo appears to have
been tried and acquitted at a former Sessions
of the Court of Circuit.- It was decidedly the
duty of the Judge presiding at the trial
to take evidence only to the particular matters
which were averred in the arraignment,
and carefully to abstain from hearing
evidence which was not only irrelevant to
the matter at issue but improper as relating
to an alleged offence of which the accused
had, on a former trial, been pronounced
to be innocent.-

The interrogatories proposed
by the Judge presiding at the trial to
the Second Prisoner after he had stated to

the

17th October 1818.

the Court what he had to offer in his defence had an tendency to make the Prisoner criminate himself and must be regarded, therefore, as inconsistent with that tenderness and forbearance which, it is expected, will always be shown by the Judge to the accused.-

The remarks which were made on the Court's proceedings of the 7th instant render it unnecessary that the Court should record any observations, on the present occasion, on the irregularity committed by the Third Judge in interrogating the Prisoner before he proceeded to hear the evidence for the prosecution.-

Ordered that extract of these proceedings be sent to the Third Judge on Circuit on the Centre Division for his information and future guidance and that he be by Precept commanded to make the necessary communication to the Magistrate of the Gilles of Confidence for the information and guidance of that Officer.-

/Sent following Precept D/.

17th October 1818.

/Here enter N: 313/

Read letter, dated the 15th August, from the Third Judge on Circuit in the Western Division,- submitting case N: 9 of Caveat Calendar, 2d Session A: D 1818.

/Here enter N: 414/

Read also letter, dated the 21st ultimo, from the Third Judge on Circuit in the Western Division,- stating that the Law Officer of the Court of Circuit has reported to him his doubts of the correctness of the Judgment in case N: 9 Caveat Calendar, 2d Session A: D 1818.-

/Here enter N: 319/

The Court having maturely weighed the proceedings held before the Third Judge on Circuit, the Notes of the Provincial Law Officer, and the Notes of the Cazee ul Cozzat and Mooftee of the Tuejdaree Adaulut confirm the said Notes of the Cazee ul Cozzat and Mooftee aforesaid, and, under the provisions of clause Sixth Section II Regulation XV of 1803, direct that the prisoners

"Ramojee" and

"Barmee"

be

be released on producing Security for their future good
behaviour and appearance when required.

Sent following letter A.

The Court of Toujdaree Adalut then
that the documents which were forwarded by
the native Officers of Police to the Criminal Judge
of the Zilla are not attested by the signature
of that Officer. The Court direct, therefore, that the
circumstance be brought to the notice of the
Magistrate of the Zilla, in order that he
may enjoin the several District Police Officers
under his authority invariably to attest with
their signatures the several Documents which
they may from time to time forward to the
Criminal Judge under the provisions of Section
XXVII Regulation XI. of 1816.

Ordered that extract of these pro-
ceedings be sent to the third Judge on Circuit
in the Western Division, by Receipt desiring
him to communicate the same to the Magis-
trate in the Zilla of Canara for his inform-
ation and guidance.

Sent following Receipt F.

Read letter, dated the 15th
ultimo, from the Second Judge of the Court
of Circuit in the Western Division,- submitting
case No. 4 North Malabar,- 3d Calendar Quarterly Ses-
sions A.D. 1818.

Here enter No. 306.

The Court having maturely con-
sidered the proceedings held before the
Judge of the Court of Circuit, the futwa of
the Provincial Law Officer, and the futwa of
the Cazee-ool-Cozat and Mooftee of the Toujdaree
Adalut confirm the said futwa of the Cazee-ool-
Cozat and Mooftee aforesaid and acquitting
the prisoner

Panian Kariun.

direct that he be released accordingly.

Sent following letter G.

Viewing the whole of the
declarations made by the Prisoner in this
case before the Criminal Judge and construe-
ing it, as the Court are bound to, in the
manner most favorable to the accused, it
cannot be considered as establishing crimi-
nality against him. His conduct however,
in regard to the concealment of the
murder is highly reprehensible, and the Court
of Toujdaree Adalut desire, therefore, that
in

in communicating their final sentence the Criminal Judge will point out to the prisoner the culpability of his conduct in this respect and will dismiss him with a suitable admonition.

The Court observe that the Acting Serishtadar of the Tyrnaad taluk assigned, as a reason for the delay which had taken place in forwarding Paniem Chemboor Prince deceased / and Pardan Kopee / who was released under warrant of the Judge of Circuit / to the Criminal Judge, that the prisoner Kopee had not answered the questions put to him for two days.

The Magistrate will explain to the Acting Serishtadar that the cause here assigned was not of itself sufficient to authorize any delay. On the accused being brought before the police officer, it was his duty to take down in writing, in the presence of the accused the depositions of the witnesses, and after affording to the accused the option of making a declaration, it only remained for him to take down any such declaration or to record his omission so to do, and then to forward him to the Criminal Judge with the

17th October 1818.

the witnesses and proceedings in the case.

Ordered, that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Western Division, by precept desiring him to make the necessary communications to the Criminal Judge in the Zillah of North Malabar and to the Magistrate of Malabar for their information and guidance respectively.

/Sent following Precept &/

Last 22

Read letter, dated the 30th ultimo, from the Second Judge of the Court of Circuit in the Central Division, submitting copy of proceedings held in case No. 2 thereon docket for 6th Sessions A.D 1818 together with the original papers delivered in the case, in obedience to the Court's orders of the 26th August.

/Here enter No. 54/

The Court of Foujdaree Adalut have viewed with concern the instance now before them of serious misconduct on the part of a Provincial Law Officer in

on the discharge of this important function of his office. The alterations made on the future decisions in this case must be regarded either as a tacit acknowledgment of the want of deliberation with which the future was originally prepared or as having arisen from dispositions on the part of the Law Officer to attend to the suggestions of the Judge presiding at the trial rather than to follow the dictates of his own judgment. After attentive consideration of the evidence recorded in this case it seems to us that the conclusion that the future was originally framed without due deliberation; but it is evident that, whether the act of the Master be attributable to negligence or to an improper compliance with the suggestion of the Judge, it must be regarded as a dereliction of duty, and as a serious neglect of the important trust reposed in him.

Had the misconduct of the Provincial Law Officer been brought to the notice of the Court at the time by the Judge presiding at the trial, the Judges of the Court would have deemed it incumbent upon them to visit the act with the penalty of dismission from

office. As the Judge of the Court of Circuit did not view this misconduct [illegible] as a light one, however, to make an immediate report of the circumstance, as enjoined in the Regulations, the Court of Vaujdaree Udalut consider it to be sufficient that the Moofter should be admonished on account of the act in question and be particularly cautioned as to the necessity of exercising care and deliberation hereafter in the performance of the duties of his office; and they direct that he be admonished and cautioned accordingly.

The Second Judge of the Court of Circuit states, in explanation of his omission to refer [illegible] to the Vaujdaree Udalut certain cases of the Bellary Calendar in which he disapproved of the future of the Provincial Law Officer, that, had he been aware of the enactment of Regulation I of 1818, he should not have hesitated a moment in referring the cases in question; but that as the law then stood he saw no advantage likely to result from the transmission of voluminous records "merely to state his opinion in a letter accompanying the record of the trial."

The

on the discharge of the confidential function
office. The alterations made on the fol
record are that order must be regarded
as a tacit acknowledgment of the
deliberations with which the future
really performed or as having arisen
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to attend to the suggestions of the
presiding at the trial rather than
the details of his own judgment after
due consideration of the evidence would
seem to support the conclusion that the
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be attributed to negligence or to an imper
please with the suggestion of the Judge
must be regarded as a dereliction of
as a serious neglect of the confidential
reported to him.

That the misconduct of the
Provincial Law Officer been brought to the
notice of the Court at the time by the
presiding at the trial, the Judges of the
would have deemed it incumbent upon
to visit the act with the formality

superscription As the Judge of the Court of Circuit
did not give the misconduct of the Secretary
considered, however, to make an immediate report
of the circumstances, as enjoined in the Regulations, to
the Court of Inquiry Ordered considered it to be
sufficient that the Master should be admonished
on account of the act in question and be
particularly cautioned as to the necessity of
exercising care and deliberation hereafter in the
performance of the duties of his office; and
they direct that he be admonished and
cautioned accordingly.

The Second Judge of the
Court of Circuit states, in explanation of his omission to refer
to the Inquiry Ordered certain cases of the Bellary Calendar
in which he disapproved of the Returns of
the Provincial Law Officer, that, had he
been aware of the enactment of Regulation II.
of 1818, he should not have hesitated a moment
in referring the cases in question; but that as
the law then stood he saw no advantage
likely to result from the transmission of
voluminous records "merely to state his opinion
in a letter accompanying the record of the
trial."

The

17 October 1818.

The Court of Foujdaree Udalut deem it their duty to acquaint the Second Judge of the Court of Circuit that mere conjecture as to the probable result of the reference to the higher Court of the several heads in question could not justify a departure from the provisions of Section XXII Regulation VII of 1802 which expressly declares that, when a Judge shall disapprove of the futwa delivered by the Law Officer, he shall not pass Sentence but shall complete the head and refer the proceedings held in the case to the Court of Foujdaree Udalut.

Ordered that a Copy of these proceedings be sent to the Second Judge of the Court of Circuit for the Centre Division for his information and guidance.

Sent to Sent following letter

R.C.

E.C.S

J. A.

At a Court of the Foujdaree Udalut.

Present,

Wednesday 21st October 1818.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read letter, dated the 31st August last, from the 3d Judge on Circuit in the Western Division, submitting case No. 2 Canara Calendar 2d Sessions A.D. 1818.

(Here enter No. 470.)

Read also remarks of the Cazee ool Cozat and Mooftees of the Foujdaree Udalut.

(Here enter A)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas of the Provincial Law Officer and the futwas of the Cazee ool Cozat and Mooftees of the Foujdaree Udalut confirm the said futwas of the Cazee ool Cozat and Mooftees aforesaid and under the discretion allowed by the sentence of Cohoobut adjudge the

the fourth Prisoner
"Pakeeraj"
to be imprisoned and kept to hard labour
in irons on the public roads or other public
works for and during the period of Twelve
Calendar months and then released.-

And the Court acquitting the
remaining Prisoners
1st "Kristna Bhut"
2d "Govind Bhut"
3d "Sam Bhut"
4th "Koontta Timaj" and
5th "Soobaj"
direct that they be released accordingly.-

sent 27th

Sent following letter A/
The Court of Zoujdaree Adalut
have to repeat the observations which they
deemed it necessary to record in their proceedings
of the 17th Instant, that the several documents
which are stated to have been forwarded by
the District Police Officer to the Criminal
Judge are not attested by the signature of
the

Hs. Police Abstract. The omission here noticed

A

Moulawee Mohummud Hanef, Mooftee of
the Court of Circuit for the Western Division, has
in the futwas, delivered by him on cases Nos
2 and 9, Canara Calendar 2d Sessions AD 1818,
been guilty of the following error:- viz. In
the futwa, given by the said Mooftee on
case No 2, he has stated, that Whereas accord-
ing to the Mohummudan Law an accessary
to a murder does not stand in the situation
of a principal, therefore the accessaries
Pakeera and Koontta Timaj are free from
the crime of murder, and should be released:
but in the futwa delivered by the Mooftee
aforesaid in case No 9, he has declared, that
inasmuch as an Accessary is under the
Mohummudan law considered in the light
of a principal in a murder, Purwoje, the
1st prisoner is liable to Kissaas.- Acontradictory

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this Fourth Prisoner

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Judge are not ... the

the Police Officer. The omission here noticed is the more important in the present case inasmuch as considerable stress is laid by the Judge presiding at the trial on declarations made by certain of the prisoners before the Native Officer of Police.

There are also other irregularities in the proceedings of the Police which call for particular observation from the Court. Mahlinga Bhut, the first witness for the prosecution, deposes before the Court of Circuit that, on the discovery of the body of the person supposed to have been murdered, the Head of the Village of Badoor, and others repaired to the spot and examined the body, which, after it had been shewn to Venkama the Prosecutrix, was ordered to be burnt; that seven or eight days afterwards the Shanbog, Vencatesha, went to the house of the witness, summoned all the inhabitants of the village and asked the Prosecutrix whom she suspected to be the murderers

of

the Fourth Prisoner

so palpable as the declarations in one future that the aiding and abetting in a murder is not considered to be an offence by the Mohummudan law, - and in another that the same offence is punishable by Kissas under the Mohummudan Code, - constitutes a fault of the most flagrant description, into which the Moofties abovementioned has fallen - it will be incumbent on the said Moofties to be particularly careful to avoid, for the future, errors of this nature, and when he may deliver a futwa to be strictly observant of the provisions of the Mohummudan law. -

sent 27th

True translation
J.H.

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21st October 1818.

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H. I. H. P.

so punishable as the declaration in one part that the aiding and abetting in a murder is not considered to be an offence by the Mohammudan law, - and in another that the same offence is punishable by Kissas under the Mohammudan Code, - constitutes a fault of the most flagrant description, into which the Moofties abovementioned has fallen - it will be incumbent on the said Moofties to be particularly careful to avoid, for the future, errors of this nature, and when he may deliver a futwa to be strictly observant of the provisions of the Mohammudan law.

And 27th

A true translation
D. H.

Judge are not allowed by law to [illegible] the

21st October 1818.

the Police Officer. The omission here noticed
[illegible] important in the present case
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of her husband; that the Shanbog then proceeded to interrogate the prisoners, whose declarations were taken down in writing, and that three days afterwards Runga Row the Tahsildar of the Behut Taluk came to the Village to make a personal enquiry into the circumstances of the case.- It is stated also by Tamana Bhut, the fifth witness, before the Court of Circuit that when the Potail and the inhabitants of the Village assembled in the first instance they asked the Prosecutrix whether she suspected any person; that she stated her suspicions and that afterwards every one departed.

The Court are unable to collect from the evidence on record whether an immediate report was made to the District Police Officer by the Head of the village on his receiving information of the discovery of the body; but it is plainly deducible from the account here given that no regular enquiry was made regarding the discovery of the

body, as prescribed in Clause first, Section XIII Regulation XI of 1816, and that no steps were taken in order to trace the perpetrators of the supposed murder until eight days after the discovery of the body when the prosecutrix was examined and declarations were taken in writing from the prisoners by the Shanbog of the village, and that the District Police Officer did not repair to the village until eleven days after the day on which the body had been discovered.-

In the whole of the proceedings here detailed the Court observe an inattention on the part of the Officers of police to the provisions of the Regulations and a remissness in the discharge of their duty which call for the particular notice of the Magistrate under whose authority they are placed.- It will be incumbent upon him to enjoin on the Head of the Village a strict observance hereafter of the several provisions of Section XIII Regulation XI of 1816, according to which he will find that, on receiving information of the discovery of

of the body, it was his duty to make an immediate report to the District Police Officer; that in the event of the non-appearance of the District police officer to conduct the prescribed enquiry it remained for him the Head of the Village to conduct the enquiry in person and to forward his report to the District police officer, and further that, in the event of there appearing to be ground for suspecting any persons within his jurisdiction of having committed the murder it was his bounden duty to apprehend them immediately and forward them to the Police Officer of the District.- The Magistrate will also point out the irregularity which was committed by the Shambog in taking any declarations from the prisoners in direct violation of clause Second Section V Regulation XI of 1816.-

The Court of Foujdaree Adalut deem it proper to desire also that the Magistrate in the Zillah of Canara will caution the police officers under his authority generally against

against carelessness and inattention in the performance of duties intimately connected with the efficient administration of public justice and with the peace and welfare of the community.-

It is stated in the record of the proceedings held before the Court of Circuit that, as Sooba, one of the witnesses for the prisoner Govind Bhut, was a boy of twelve years of age, his evidence was not taken.- The youth of the person here mentioned did not constitute a sufficient bar to the admission of his evidence: the Judge presiding at the trial should have taken his deposition, leaving the Judges of the Foujdaree Adalut to determine as to the degree of credit to be given to his evidence, or accompanying it with such remarks as he might consider to be necessary for the consideration of the Foujdaree Adalut.-

Ordered that the remarks of the Law Officers be sent to the Third Judge

on

on Circuit in the Western Division accom-
=panied by an English translation and
extract of these proceedings; and that he
be by precept enjoined to communicate
the necessary part to the Magistrate in
the Zillah of Canara for his information
and guidance as also to communicate the
remarks of the Cazee ool Coyat and
Mooftees for the information and future
guidance of Mooftee Mohummud Hussy-
sent 27th (Sent following Precept. B.)

Read letter, dated the 17th ultimo,
from the 2d Judge of Circuit in the Western
Division, submitting case No. 7. North
Malabar Calinkar 3d Quarterly Sessions
A.D. 1818.-

(Here enter No. 577.)

The Court having maturely consider-
the proceedings held before the Judge of Circuit
the futwas of the Provincial Law Officers
and the futwas of the Cazee ool Coyat and
Mooftees of the Zoujdaree Adalut confirm
the

J. M.

21st October 1818.

the said futwas of the Cazee ool Coyat and
Mooftees aforesaid and, as the act for which
the prisoner has been tried does not appear
to call for any further punishment in
addition to his former sentence, the Court
direct that the Prisoner

"Joinen Amod"

be imprisoned and kept to hard labour in
irons on the public roads or other public works
for the remaining period of his former sentence
and then released.-

(Sent following letter C.)

The Court of Zoujdaree Adalut
have to observe that, in order to make the
body of evidence complete in this case, it
was necessary that an attested copy of the
warrant of the Court of Quarterly Sessions,
adjudging the prisoner to the employment
on the public roads from which he was
charged with having made his escape, should
have formed part of the record of the
proceedings.-

Ordered that extract of these
proceedings.-

proceedings be sent to the Second Judge of
Court of Circuit in the Western Division of
Precept desiring him to communicate the
same to the Criminal Judge in the Zillah
of North Malabar for his information.

sent 27th

(Send following Precept)

Read letter dated the 9th inst.
from the 3d Judge on Circuit in the Northern
Division, - acknowledging the receipt of
letter dated 17th August and submitting a
question relative to the proper course of
proceeding in the case of a prisoner brought
to trial before the Court of Circuit for
homicide during a fit of insanity and not
appearing on the trial to be insane -

sent 27

(Here enter No. 561.)

In all cases where a person
may be expressly accused of having committed
homicide during a fit of insanity, it will be
unquestionably the duty of the Judge before
whom he may be brought, whether the
insanity of the prisoner be partial or absolute
to proceed in conformity with the Court's
Circular

Circular orders of the 29th October 1807 inasmuch as no man can be considered to be
chargeable for his own acts if committed
under a deprivation of intellect. But whenever
a person may be brought before a Judge
on Circuit charged with having committed
murder and shall appear to be capable
of pleading to the arraignment, it is left
to the discretion of the Judge either to act
in conformity with the Court's orders of
the 29th October 1807 or to cause the accused
to be put upon his trial, according as it
may appear to him, from the Criminal
Judge's proceedings or otherwise, that the
act was or was not committed by the accused
under the influence of insanity. -

The third Judge observes, in
his letter, that as he did not frame the
charge which the Court have pronounced
to be "anomalous he does not perceive
"the error he has committed." The observation
of the Court applied to the words "trial
"for the crime of murder during a fit of insanity

which

which were prefixed to the record of the proceedings forwarded under the signature of the Third Judge for the final sentence of the Foujdaree Udalut, and it was deemed proper to notice the wording of the title, which involved a contradiction in terms, in order that the Third Judge might be careful to prevent the like inaccuracies in the records of trials which he may forward from time to time to the Foujdaree Udalut, and the Court deem it incumbent upon them further to observe to the Third Judge that where such errors may appear in the papers which may be delivered to him by the Criminal Judge he should bring them to the notice of that Officer.-

Ordered that extract of these proceedings be sent to the Third Judge on the Circuit in the Northern Division for his information and future guidance.-

(Sent following letter &c.

Read return, dated the 2d instant from the

J.C.

21st October 1818.

the 3d Judge on Circuit in the Centre Division, transmitting in return to the Court's precept of 2d ultimo copies of Futwas in cases Nos. 16, 17, 21, 28, 39, 40, 41, 42, 44 and 47.-

/Here enter No. 559./

An examining the futwas, which have been delivered in cases Nos. 16, 17, 21, 28, 39, 40, 41, 42, 44 and 47 of the Cuddapah Calendar, the Court observe, that the Law Officer has declared in general terms, that the charges against all the prisoners in some, and against certain of the prisoners in other cases are not supported by evidence, and that the prisoners in question should therefore be set at liberty. Under the opinions delivered in these futwas, it was not competent to the Judge presiding at the trials, except on the ground of the bad character of the prisoners, as shewn on the records, to call upon them to give security for future good behaviour.- It will be the duty of the Third Judge of the Court of Circuit, therefore, to revise the proceedings held before him in

which were prefixed to the record of the proceedings forwarded under the signature of the Third Judge for the final sentence of the Foujdaree Udalut, and it was deemed proper to notice the wording of the title, which involved a contradiction in terms, in order that the Third Judge might be careful to prevent the like inaccuracies in the records of trials which he may forward from time to time to the Foujdaree Udalut, and the Court deem it incumbent upon them to further to observe to the Third Judge that where such errors may appear in the papers which may be delivered to him by the Criminal Judge he should bring them to the notice of that Officer.-

Ordered that extract of these proceedings be sent to the Third Judge on his information and future guidance.-

(And following letter &c.

Read return, dated the 2d instant from the

J.H.

21st October 1818.

the 3d Judge on Circuit in the Centre Division. transmitting in return to the Court's precept of 2d ultimo copies of Futwas in cases Nos. 16, 17, 21, 28, 39, 40, 41, 42, 44 and 47.-

/Here enter No. 559./

An examining the futwas, which have been delivered in cases Nos. 16, 17, 21, 28, 39, 40, 41, 42, 44 and 47 of the Cuddapah Calendar, the Court observe, that the Law Officer has declared in general terms, that the charges against all the prisoners in some, and against certain of the prisoners in other cases are not supported by evidence, and that the prisoners in question should therefore be set at liberty.- Under the opinions delivered in these futwas, it was not competent to the Judge presiding at the trials, except on the ground of bad character of the prisoners, as shewn on the records, to call upon them to give security for future good behaviour.- It will be the duty of the Third Judge of the Court of Circuit, therefore, to revise the proceedings held before him in

in

in the several cases aforesaid and unless it shall appear, on the records of the Court that the prisoners have referred to are persons of bad character, to direct that they be set at liberty.-

Ordered that extract of these proceedings be sent to the Third Judge of Circuit in the Central Division for his information and guidance.-

Court following letter.

Read letter, dated the 15th inst. from the 2d Judge of Circuit in the Central Division, stating that in consequence of the absence of the prosecutors and witnesses for the cases to be tried by the Court of Quarterly Sessions that Court had been obliged to close without proceeding on a single trial.-

(Here enter No. 558.)

It appears from the foregoing letter that notice was given to the Criminal Judge in the Zillah of Chittoor on the 17th instant of the day on which the Sessions

21st October 1818

of the Sessions would commence, that a communication was made to the Magistrate on the 28th ultimo and that, in consequence of the non-attendance of some of the witnesses and Prosecutors, the Judge of the Court of Circuit has been obliged to close the Court without entering upon a single trial.-

The Court observe that the Nazir of the Zillah Court stated, in answer to a question from the Judge presiding at the Sessions as to the cause of the delay in communicating with the Magistrate, that fifteen days notice was considered sufficient; but it will be proper to point out to the Criminal Judge that, according to the spirit of the provisions of Section XVII Regulation X of 1816, it was his duty to send a copy of the prescribed publication to the Magistrate as soon as he received notice from the Judge of the Court of Circuit of the day on which he intended to open the Court

of

21th Octobr 1818

in the several cases aforesaid and, unless it shall appear, on the records of the Court that the prisoners here referred to are persons of bad character, to direct that they be set at liberty.-

Ordered that extract of these proceedings be sent to the Hurkarrah Circuit in the Centre Division for their information and guidance.-

Sent 27th

Sent following letter. & Read letter, dated the 15th inst. from the 2d Judge of Circuit in the Centre Division,- stating that in consequence of the absence of the prosecutors and witnesses for the cases to be tried by the Court of Quarterly Sessions that Court had been obliged to close without proceeding on a single trial.-

(Here enter No 558.)

It appears from the foregoing letter that notice was given to the Criminal Judge in the Zillah of Chittoor on the 15th ultimo of the day on which the business

21th Octobr 1818

of the Sessions would commence, that a communication was made to the Magistrate on the 28th ultimo and that, in consequence of the non-attendance of some of the witnesses and Prosecutors, the Judge of the Court of Circuit has been obliged to close the Court without entering upon a single trial.-

The Court observe that the Nazir of the Zillah Court stated, in answer to a question from the Judge presiding at the Sessions as to the cause of the delay in communicating with the Magistrate, that fifteen days notice was considered sufficient; but it will be proper to point out to the Criminal Judge that, according to the spirit of the provisions of Section XVIII Regulation X of 1816, it was his duty to send a copy of the prescribed publication to the Magistrate as soon as he received notice from the Judge of the Court of Circuit of the day on which he intended to open the Court

of

21st October 1818.

of Quarterly Sessions-

It is stated, in the extract from the proceedings of the Court of Circuit which is annexed to the above letter, that the Court has been closed until the Nazir of the Zilla Court reports the arrival of the prosecutors and witnesses.- The Court of Foujdaree Adalut trust, therefore, that on the arrival of the remaining prosecutors and witnesses the Judge will proceed to hold a Session of Jail delivery.-

Regulation VII of 1802 which the Second Judge has cited in his proceedings has been rescinded by Section II Regulation IX of 1816, and the provisions to which he has referred are contained in Section XXII Regulation X of 1816.-

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Centre Division for his information and guidance and that he be by precept commanded to communicate to the Criminal Judge in the Zilla of Chittoor such

5/ F.R.

21st October 1818.

127

such part of these proceedings as concerns that officer for his information and future guidance.-

/Sent following letter/

Read return, dated the 9th instant, from the 2d Judge of the Court of Circuit in the Northern Division,- to precept dated 21st ultimo ordering transmission of the record of proceedings in case No. 11 Rajahmundry Calendar 1st Sessions A.D 1818.-

/Here enter No. 556./

Read return, dated the from the 1st Judge of the Court of Circuit in the Centre Division,- to precept dated 2d instant ordering communication to the acting Criminal Judge and Magistrate of Chittoor of the Court's observations on case No. 15 Chittoor Calendar 3d Quarterly Session A.D. 1818.-

/Here enter No. 560./

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21st Octo

21st October 1818.

of Quarterly Sessions.-

It is stated, in the extra
from the proceedings of the Court of Cir
which is annexed to the above letter, t
the Court has been closed until the
of the Zilla Court reports the arrival of
prosecutors and witnesses.- The Court of
Joujdaree Udalut trust, therefore, that on
the arrival of the remaining prosecutor
and witnesses the Judge will proceed to
hold a Session of Jail delivery.-

Regulation VII of 1802 which
the Second Judge has cited in his proceedings
has been rescinded by Section II Regulation
IX of 1816, and the provisions to which he
has referred are contained in Section XXII
Regulation X of 1816.-

Ordered that a extract of this
proceedings be sent to the Second Judge
of the Court of Circuit in the Centre Divisi
for his information and guidance and that
he be by precept commanded to communicate
to the Criminal Judge in the Zilla of Chittoor

such

F.R.

21st October 1818.

such part of these proceedings as may relate to
that officer for his information and
guidance.-

Sent following letter &
Read return, dated the 9th instant,
from the 2d Judge of the Court of Circuit in
the Northern Division,- to precept dated 21st
ultimo ordering transmission of the record
of proceedings in case No. 11 Rajahmundry
Calendar 4th Sessions A.D. 1818.-

(Here enter No. 556.)

Read return, dated the
from the 1st Judge of the Court of Circuit in
the Centre Division,- to precept dated 2d
instant ordering communication to the
acting Criminal Judge and Magistrate of
Chittoor of the Court's observations on case
No. 15 Chittoor Calendar 3d Quarterly Session
A.D. 1818.-

(Here enter No. 560.)

20

M

C.C.S.

J. M.

At a Court of the Foujdaree Adalut-

Present,

Friday
23rd October 1818. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

At

Read letter, dated the 30th ultimo,
from the Third Judge on Circuit in the Western
Division, - submitting case No. 1. Canara Supple=
=mental Calendar 2d Sessions of 1818 -
[Hyde entered No. 5461]
the foregoing letter being accom=
=panied only by an English translation of the
Proceedings held in this case, the Court direct
that the Third Judge of the Court of Circuit
in the Western Division be by precept enjoined
to send up the Persian translation of the
Proceedings held in case No. 1. of Canara Supple
=mental Calendar 2d Sessions of 1818 with
as little delay as possible -

Sent following Precept A/

Read return dated the 15th instant,
from the 3d Judge on Circuit in the Centre
Division, to precept dated 7th ultimo ordering
communication to the Criminal Judge of
Cuddapa

23d October 1868.

Cuddapah

Copy of the Court's observations on Cases Nos. 5, 14, & 24, Cuddapah Calendar 2d Sessions A.D. 1868.-

M. R.A.

/Here enter No. 563./

J. M.

At a Court of the Foujdaree Adalut-

Present,

Thursday
29th October 1868. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter, dated the 4th August

Ent. 5
M

last, from the 3d Judge on Circuit in the Western Division,- submitting case No. 3 Canara Calendar 2d Sessions A.D. 1868.-

/Here enter No. 423./

Read also letter, dated the 19th ultimo, from the 3d Judge on Circuit in the Western Division- stating that he has received from the Acting Criminal Judge in the Zillah of Canara report of the decease of Sunkrap prisoner in case No. 3 on the Calendar & referred to the Foujdaree Adalut.-

/Here enter No. 513./

The Court having maturely considered the proceedings held before the Judge on Circuit the duties of the Provincial Law Officer and the duties of the Cazee ool Cozat

and

and Mooftees of the Fouzdaree Adalut to
the said Futwas of the Cazee and Cozat and
Mooftees aforesaid and under the provisions
of clause sixth, Section II Regulation XII
1813, direct that the prisoner

"Henaiq"

be released on producing security for his
future good behaviour and appearance when
required.-

(Sent following letter No

The Court have to observe, with
respect to the present case, as they have
occasion to remark in their proceedings
No 2 of the Canara Calendar, that the
several documents forwarded by the
Police Officer to the Criminal Judge
not attested by the signature of the
officer.-

He appears also in
the Court that

the prisoner Henaiq and that the said prisoner
was detained some days at the house of the
potail.-

The Court of Fouzdaree Adalut
desire, therefore, that the Magistrate in
the Zillaq of Canaraq will call the attention
of the said potail, Perna Shetty, to Clause
Second Section V Regulation XI of 1816 which
expressly declares that Heads of villages
shall not receive from any person whom
they may apprehend, any confession either
verbally or in writing, except in trivial
cases, and that they shall not on any
account, except the accused person be in
such a state as to render his removal
improper, detain any person in their custody
longer than twenty four hours.-

Ordered that extract of these
proceedings be sent to the Third Judge on
Circuit in the Western Division by Precept
desiring him to communicate the same
to the Magistrate in the Zillaq of Canaraq
for his information and guidance.-

(Sent following Precept No

29th October 1818

Read letter dated the 17th instant,
from the 3d Judge on Circuit in the Northern
Division, - with copy of Rajahmundry
Calendar 2d Sessions A.D. 1818. -
Ent
AA R.A. /Here enter No 572/5

Copied

F.M.

At a Court of the Foujdaree Udalut -
Present,

Friday
30th October 1818 Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges -

Read letter dated the 16th instant,
from the 1st Judge of Circuit in the Centre
AA Division, - transmitting with observations copy
of his precepts to the Criminal Judge of
Chittoor and of that officers returns respecting
the prisoner in case No 61 Chittoor Calendar
3d Quarterly Sessions A.D. 1818. -
/Here enter No 569/

In the return made by the
Criminal Judge in the Zillah of Chittoor to the
Second Precept of the First Judge, he requests
under Section II Regulation XXII of 1802
that the precepts and returns may be sub-
-mitted to the Court of Foujdaree Udalut. -
The First Judge has accordingly referred
the papers for the consideration of the Court
of Foujdaree Udalut and in making the
reference

the reference the First Judge has considered it necessary to record some observations on the conduct of the Criminal Judge.-

The following is an extract from the proceedings of the Court of Circuit for the Centre Division dated the 11th July last.

"In No. 61 the Prisoner Canlee accused of theft "by Buddoy Sankeb of Dellarabad near "Chittoor, being brought to the bar, appears "to be a child of seven years old, and states "her age to be nine.- The Moulvie declared that "she cannot be tried according to the Mahomedan "law and the Judge is of opinion that she is "incapable of pleading in her defence. The "Criminal Judge's proceedings show strong "grounds for suspecting that she is guilty "of the charge and has been trained by a band "gang of offenders in the commission of theft. "It is therefore resolved not to enter upon the "trial but to direct the Criminal Judge to "detain her in custody until security is "given for her good behaviour."

The question for the consideration of

of the Court of Fouzdaree Udalut is whether it was competent to the First Judge of the Court of Circuit to issue the above order under Clause Sixth Section II Regulation XV of 1803.-

Clause sixth Section II Regulation XV of 1803 declares that in cases of strong suspicion though not amounting to conviction, as well as upon proof of notorious bad character a Judge of Circuit may order a prisoner to give security for future good behaviour and appearance when required.- As the prisoner in this case was not put upon her trial it can only be on the ground of notorious bad character that she has been ordered to give security.- The intent and meaning of the law in this respect was explained by the Court of Fouzdaree Udalut in their Circular orders of the 5th of June 1815, wherein they observed that it was competent to "Judges of Circuit to require security" in cases "where notorious bad character should be "proved

30th October 1818

"proved to their satisfaction whatever might
"be their future of the Provincial Law Officer."
Under this interpretation of the law it was
undoubtedly competent to the First Judge to
institute a summary enquiry as to the character
of the prisoner, Caulea, and to found on the issue
of that enquiry such order as he might deem
necessary regarding her release from jail.—
No such enquiry however would seem to
have been instituted, and it does not appear,
therefore, that there were any legal grounds
for ordering the prisoner to be detained in
Custody until she should give security.—

The Court of Foujdaree Adalut
having recorded their sentiments on the question
immediately submitted for their determination,
proceed to notice such parts of the returns
from the Criminal Judge in the Zilla of
Chittoor as call for observation.—

The Criminal Judge remarks
in his return to the first precept of the Judge
of Circuit and repeats the remark in his
return to the second precept "that the order
passed

F. R.

30th October 1818.

"passed by the Circuit Judge is tantamount
"to a sentence of perpetual imprisonment upon
"her." In making this observation the Criminal
Judge has assumed the fact that the prisoner's
behaviour during her confinement, on which
the recommendation for her eventual
release on a Moochulka without security
would materially depend, would be such
as to render her undeserving of any indul-
=gence.— The assumption is gratuitous co
and the reflection which is cast on the
proceeding of the First Judge is unauthorized
and improper.—

In the return to the second
precept the Criminal Judge proceeds as
follows:— "But the Circuit Judge apparently
"to obviate this consequence which he might
"not at first have foreseen has ordered
"me to have recourse to clause first Section
"XI. Regulation XV of 1803." On the construction
which the Criminal Judge has here put on
the act of the First Judge of Circuit the
Court of Foujdaree Adalut deem it their
duty

30th October 1818

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"be their fruitless of the Provincial Law Officer".
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in his return to the first precept of the Judge
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passed

F. C.

30th October 1818.

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behaviour during her confinement, on which
the recommendation for her eventual
release on a Moochulka without security
would materially depend, would be such
as to render her undeserving of any indul-
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"to obviate this consequence which he might
"not at first have foreseen has ordered
"me to have recourse to clause first Section
"XI. Regulation XV of 1803." On the construction
which the Criminal Judge has here put on
the act of the First Judge of Circuit the
Court of Fouzdaree Adalut deem it their
duty

30th October 1818

duty to observe that it rests entirely on the supposed truth of the Criminal Judges assumption which has been shewn to be gratuitous; that it tends to fix a stigma on the orders of the First Judge and that it is totally unwarranted and irreconcileable with that respect which it behoves a Criminal Judge to manifest, at all times, towards the Judges of a Superior Court.

In referring the Criminal Judge to the provisions of Clause First Section XI Regulation XV of 1803. the First Judge appears to have been desirous to call the attention of the Criminal Judge to a clause which, judging from the language of the return to the first precept, the Criminal Judge might be supposed to have overlooked.

The Court of Foujdaree Adawlut trust that the Criminal Judge will see the impropriety of his conduct and that an admonition from them will be a sufficient correction for his fault. They direct therefore that

that he be advised of his fault and admonished accordingly.

Ordered that extract of these proceedings be sent to the First Judge of the Court of Circuit in the Centae Division in order that he may revise the order passed by him in case No. 61 of the Chittoor Calendar for the 3d Quarterly Sessions of 1818 and that he be by Precept enjoined to communicate the sentiments of the Court to the Criminal Judge in the Zilla of Chittoor &c. for his information.

Sent following Precept &c.

R. S.

A1

J. C.

At a Court of the Zoujdaree Udalut

Present,

Tuesday
3d November 1818. Andrew Scott Esqre } Judges.
Edward Croft Greenway Esqre }

Read letter, dated the 17th ultimo from the Criminal Judge in the Zillah of North Malabar, recommending the offer of a conditional pardon to the two persons mentioned in his letter of the 26th September as far as regards the guilt incurred by them in the murder of Comaya and Canachencandy Pacroo.-

/Here enter No. 585./

Read again letter, dated the 20th September from the Criminal Judge in the Zillah of North Malabar, recommending the tender of a conditional pardon to two persons concerned in a murder and other offences.-

/Here enter No. 587./

The Court resolve to submit the above letters to Government and to recommend that the Right Honorable the

Governor

Governor in Council may be pleased to authorize a tender of pardon to Chembile Addyan and Chadala Moideen Cooty, on the conditions specified in Section XX Regulation VIII of 1812

Ordered that the foregoing letter and extract from the Court's proceedings of 7th ultimo and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

N P.A. Sent following letter A/ 25

At a Court of the Foujdaree Adalut.

Present

Wednesday 4th November 1818.- Andrew Scott Esqre } Judges.
Edward Croft Greenway Esqre }

Read letter dated the 23d September

N from the 2d Judge of the Court of Circuit in the Western Division,- submitting case No. 21. North Malabar Calendar 3d Quarterly Sessions A.D. 1818.-

/Here enter No. 523./

The Court having maturely considered the proceedings held before the Judge of Circuit the futwas of the Provincial Law Officers and the futwas of the Cazeroob. Coozat and Mooftees of the Foujdaree Adalut to confirm the said futwa of the Cazeroob. Coozat and Mooftees aforesaid and acquitting the prisoner

"Kollem Chekoo"

direct that he be released according[illegible]-

/Sent following letter A/

The

The arraignment in the first case is defective, inasmuch as it does not contain any averment of what was the true and the fact, the opposite of which having been sworn to constituted the perjury charged a charge of perjury, it is to be observed, must always rest on these two points, first, that one fact is the truth and the second that another fact, which was not the truth, was wilfully and corruptly sworn to by the accused.- An arraignment is distinctly to state the issue or question to be tried; and it is essential to the issue, in a case of perjury, that the truth which is to be proved be set forth, as well as the falsehood which is to be proved to have been uttered on oath.-

It is of importance that the strictest attention should be given to the several particulars requisite to be proved in trials for perjury, and as the Court directed in their Circular orders of the 27th January 1814 that a brief statement in the nature of

Seemaycoil

of an indictment should be prepared in each case by the Officer who commits a persons accused to take their trial before the Court of Circuit and be by him delivered with his proceedings to the Judge of Circuit; it will be necessary that the foregoing observations should be communicated for the guidance of the Criminal Judges in the Zillas of North Malabar.-

Ordered that extract of these proceedings be sent to the second Judge of the Court of Circuit in the Western Division for his information and future guidance and that he be by precept enjoined to communicate the same to the Criminal Judge in the Zillah of North Malabar for the information and guidance of that Officer.-

/Sent following Precept B./

Read letter, dated the 19th ultimo, date from the 1st Judge on Circuit in the Southern Division,- with copy of Tinnevelly Calendar 2d Sessions A.D 1818.-

to be prepared 2

/Here enter No. 575./

3. No 4th November 1818.

In the remarks on case No. 14 of the Calendar it is stated that the prisoner have been ordered to be released on giving security for their future good behaviour and appearance when required "for two years."-

The Court of Foujdaree Udalut direct that the attention of the First Judge on Circuit in the Southern Division be called to their circular orders dated the 30th August 1816, in order that the sentence passed in the above case may be revised accordingly.-

With regard to the sentence in case No. 15 on Valenguporly tooreer Zemindar of Chokumputty, the Court conclude that it was passed on the ground of bad character as given in evidence before the Court of Circuit; it being obvious to remark that judgment can be regularly pronounced only on a consideration of all the circumstances of the case as recorded in evidence on the proceedings of the Court.-

Ordered that extract of these

2/ J. H.
4th November 1818.

proceedings be sent to the First Judge on Circuit in the Southern Division for his information and guidance.-

Sent following letter C./

Read letter dated the 21st ultimo from the Provincial Court of Circuit in the Western Division,- enclosing copy of letter from the Magistrate of Malabar submitting certain doubts as to the construction of Regulation XI of 1816.-

/Here enter No. 587./

The doubts entertained by the Magistrate of Malabar relate to the construction of Section XLI Regulation XI of 1816 whereby Assistant Magistrates are "authorized to exercise the same police "authority as is granted to the Magistrate "by this Regulation or such part of it "as may be deemed expedient by the "Magistrate." The omission by the Magistrate of the word "police" has occasioned the apparent obscurity which he has noticed in his letter.- Regulation XI relates exclusively

Seeneu

exclusively to the duties of police, but
Section V. Regulation IX of 1816 expressly
declares that Magistrates are authorized
to employ their Assistants in the performance
of judicial duties; and where an Assistant
may be deputed to a large town, the exercise
of his judicial authority is to be restricted
on the principle recognized with regard to
his police authority, in Section XLI Regulation
XI of 1816, to the limits of such town.

Ordered that extract of this
proceeding be sent to the Court of Circuit
in the Western Division by precept enjoining
them to communicate the same to the
Magistrate in the Zillay of Malabar for
his information and guidance.

Sent following precept D°

Read letter dated the 20th ultimo
from the 3d Judge on Circuit in the Centre
Division, stating that he has revised his
proceedings in certain cases as directed by
the 7th Dayd and dated.

(Here enter No. 585.)

Read

Read return, dated the 25th ultimo
from the Provincial Court of Circuit in the
Western Division, to precept dated 28th
September ordering communication to the
Magistrate of Malabar of the Court's
observation on his letter respecting the
delegation of authority to his Assistants.

(Here enter No. 586.)

Read return, dated the 27th ultimo,
from the Provincial Court of Circuit in the
Southern Division, to precept dated 2d instant
ordering communication to the Magistrate
of Tanjore of the Court's remarks on his letter
explanatory of this correspondence with the
Assistant Criminal Judge at Combaconum.

R. A. (Here enter No. 576.)

Read return, dated the 20th ultimo
from the 3d Judge on Circuit in the Centre
Division, to precept dated 15th instant directing
him to explain the cause of the non transmission
of the Returns called for by the Court under
date 27th ultimo.

(Here enter No. 567.)

M
E.C.

See encl. 588

J. 16

At a Court of the Zoujdaree Adaulut

Present,

Monday 6th November 1818. — Andrew Scott Esqre. / Edward Croft Greenway Esqre. } Judges.

Read Letter, dated the 29th September

G.C.S. 11 — from the 1st Judge of the Court of Circuit in the Northern Division,- submitting case No 4 Masulipatam Calendar 3d Quarterly Sessions A.D. 1818.-

/Here enter No. 542/

The Court having maturely considered the proceedings held before the Judge of Circuit the futwas of the Provincial Law Officer and the futwas of the Cazee ool Coozat and Mooftees of the Zoujdaree Adaulut confirm the said futwas of the Cazee ool Coozat and Mooftees aforesaid and accordingly direct that the Prisoners

1st "Sunnea Aumundaroydoo"
2d "Luchimsetty Parumtaulo"
3d "Collesparo Soobbadoo"
4th "Collesparo Basawadoo"
5th & 6th "Govala Chittoory Peddo Chinniah" & "Collesparo Yuktiah"

be set at liberty.- /Sent following letter A/

Sent 13th

4.c

9.th November 1818.

Read return, dated the 6th. inst.
from the 1st Judge of the Court of Circuit in
Centre Division, to precept dated 17th. ultimo
ordering communication to the Magistrate
of Chittoor of the Courts observations on Case
No. 43 Chittoor Calendar 3d Quarterly Sessions
A.D. 1818.-

(Here enter No. 607)

Read return dated the 3d instant
from the Third Judge on Circuit in Centre
Division, - to precept dated 15th ultimo ordering
communication to the Magistrate in the Zillah
of Cuddapah of the Courts observations on case
No. 4 Cuddapah Calendar 2d Sessions A.D. 1818.-

(Here enter No. 608.)

Read letter dated the 3d instant
from the 3d Judge on Circuit in the Centre
Division, - reporting the arrival of the Court of
Circuit at Chingleput.-

(Here enter No. 592.)

Read letter dated the 6th ultimo
from the 2d Judge on Circuit in the Northern Division
reporting the arrival of the Court of Circuit at
Vizagapatam.-

(Here enter No. 599.) Read

9.th November 1818

Read return, dated the 20th ultimo,
from the 2d Judge of the Court of Circuit in the
Western Division, - to precept dated 15th ultimo
ordering communication to Criminal Judge
North Malabar of the Courts observations
on his proceedings against a person refusing
to attest a confession of Robbery.-

(Here enter No. 595.-)

Read letter, dated the 23d ultimo
from the 3d Judge on Circuit in the Western
Division, - reporting the death of the 5th
prisoner in Case No. 2 Canara Calendar
2d Sessions A.D. 1818

(Here enter No. 593.)

The Court passed sentence in
the above case on the 21st ultimo. - I 20

G.G.S
M

Licenses

F. C.

At a Court of the Joydaree Udalut

Present

Thursday —
12th November 1818 — Andrew Scott Esqre. — Edward Croft Greenway Esqre. } Judges

Read letter, dated the 5th instant,

E.C. / N1 — from the 2d Judge on Circuit in the Centre Division, with copy of Chittoor Calendar 4th Quarterly Sessions AD 1818. —

/Here enter Ar. 608/

The Court desire to have before them 9 of the Calendar, wherein certain prisoners, who are stated to have been acquitted by the Provincial Law Officer, have been ordered to give Security. —

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Centre Division by Precept, desiring him to send up copies of the futwas delivered in the several Cases abovementioned within five days from the date of the receipt of the Precept. —

Sent 12th

/Sent following Precept &/

Read

Copy

F. W

At a Court of the Foujdaree Udalut

Present

Thursday — 12th November 1818 — Andrew Scott Esqre — Edward Croft Greenway Esqre } Judges

Read letter, dated the 5th instant,

E.C.I. / A1 — from the 2d Judge on Circuit in the Centre Division, with copy of Chittoor Calendar 4th Quarterly Sessions A.D 1818. —

/Here enter Ac 608/

The Court desire to have before them copies of the Futwas delivered in Cases Nos 1, 3 and 9 of the Calendar, wherein certain prisoners, who are stated to have been acquitted by the Provincial Law Officer, have been ordered to give Security. —

Ordered that extract of these proceedings be sent to the second Judge of the Court of Circuit in the Centre Division by Precept, desiring him to send up copies of the futwas delivered in the several Cases abovementioned within five days from the date of the receipt of the Precept. —

Sent 12th

/Sent following Precept A/

Read

Read return, dated the 2d instant from the Judge on Circuit in the Centre Division, - to the Court's precept dated 21st Octr instant ordering communication of Criminal Judge of Chittoor of the Court's observations his delay in informing the Magistrate of the day for opening the Quarterly Sessions.-

/Here enter No. 610/

Read letter, dated the 3d instant from the 2d Judge on Circuit in the Centre Division, - report of the Criminal Judge of Chittoor regarding state of mind of the prisoner in Case No 17 Chittoor Calendar 2d Quarterly Sessions of 1818.-

/Here enter No. 611/

Read letter, dated the 5th instant from the 3d Judge on Circuit in the Centre Division, - stating that he has remitted his proceedings in certain Cases as directed by the Court.-

/Here enter No. 615/

Read letter, dated the 6th instant from the 1st Judge of the Court of Circuit in the Southern Division, - stating that the proceedings in Cases referrible to the Court will be transmitted with as little delay as possible.-

/Here enter No. 616/

Read return, dated the 7th instant from the 1st Judge of the Court of Circuit in the Centre Division, - to the Court's precept of 30th October enjoining him to revise the order passed by him in Case No. 61 of Chittoor Calendar 3d Quarterly Sessions of 1818. The first Judge submits evidence since taken as to the character of the prisoner in the above case and states that, under the evidence so taken, he had allowed his original order to remain in force.-

/Here enter No. 617/

R. A.

Monday
16th November 1818

At a Court of [illegible]
Present
Andrew Scott [illegible]
Edward Croft Green [illegible]

16th November 1818 Proceedings

[illegible] turn, dated the 4th instant,
[illegible] of Circuit in the
[illegible] ept dated 17th
[illegible] mal –
[illegible] labor
[illegible] m
Read [illegible] instant,

from the Criminal Judge in the Zilla of North Malabar,
forwarding Copies of 3 warrants passed by the 2d
Judge presiding at the 3d Quarterly Sessions for
Banishment to any Jail that the Court may determine.

(Here enter No. 618)

The Court of Foujdaree Udalut
direct that the prisoners,

1st Vattole Packey
2d Vanian Kelloo
3d Chottee Babachy
4th Kyderi Chandoo
5th Molodden Kelloo
6th Karutadata Kunharen
7th Chotee Packey, and
8th Kottolen Moideen

be removed to the Jail in the Zilla of Seringapatam,
there to be imprisoned and kept to hard labour during
the periods of their respective Sentences. –

Ordered that extract of these
proceedings

Monday
16th November 1818

At a Court of

Present

Andrew Scott
Edward Croft Greer

Read the

return, dated the 4th instant,

Court of Circuit in the

Court dated 7

Criminal

of Malab

instant,

from the Criminal Judge in the Zilla of North Malabar,
forwarding Copies of 3 warrants passed by the 2d
Judge presiding at the 3d Quarterly Sessions for
Banishment to any Jail that the Court may determine.

/Here enter A. 618/

The Court of Foujdaree Adalut
direct that the prisoners,

1st Vattole Packey
2d Vaican Kelloo
3d Chottee Babachy
4th Kyderi Chandoo
5th Molodden Kelloo
6th Karutadata Kunharen
7th Chotee Packey, and
8th Kottolen Maideen

be removed to the Jail in the Zilla of Seringapatam,
there to be imprisoned and kept to hard labour during
the periods of their respective Sentences.—

Ordered that extract of these

proceedings.

ings be sent to the Criminal Judges in the Zillas of North Malabar and Seringapatam for the information and guidance of those Officers respectively.—

/Sent following letter A/

Read letter, dated the 10th instant, from the Secretary to Government in the Judicial Department,— stating that the Governor in Council authorizes the conditional offer of pardon to Chembut Addyan and Chandala Maideen Cooty by the Criminal Judge North Malabar.—

/Here enter No. 622/

The Court direct that the Resolution of Government be communicated to the Criminal Judge in the Zilla of North Malabar for his information and guidance.—

/Sent following letter B/

Read return, dated the 4th instant, from the 3d Judge on Circuit in the Western Division to the Court's precept dated 17th Ultimo ordering communication to the Magistrate of Canara of the Court's observations on Case No. 9 Canara Calendar 2d Sessions AD 1818.—

/Here enter No. 619/

Read

Read return, dated the 4th instant, from the 2d Judge of the Court of Circuit in the Western Division,— to the Court's precept dated 17th Ultimo ordering communication to the Criminal Judge North Malabar and the Magistrate of Malabar of the Court's observations on Case No. 4 North Malabar Calendar 3d Quarterly Sessions AD 1818.—

/Here enter No. 620/

Read return, dated the 6th instant, from the 2d Judge of the Court of Circuit in the Western Division, to the Court's precept dated 21st Ultimo ordering communication to the Criminal Judge North Malabar of the Court's observations on Case No. 7 North Malabar Calendar 3d Quarterly Sessions AD 1818.—

/Here enter No. 626/

Read letter, dated the 10th instant, from the 1st Judge of the Court of Circuit in the Centre Division,— returned transmitting warrant for the execution of the prisoner in Case No. 43 Chittoor Calendar 2d Sessions AD 1818.—

/Here enter No. 625/

E. C. S. R. A.

16th November 1818.

Thursday
19th November 1818

At a Court of the Fouzdaree Udalut

Present

Andrew Scott Esqre. }
Edward Croft Greenway Esqre. } Judges

Read letter, dated the 9th instant, from the 2d. Judge on Circuit in the Northern Division, — requesting the orders of the Court regarding a Case of assault and torture which the Criminal Judge of Masulipatam has allowed to be compromised. —

GCS
AT

/Here enter No. 631/

Among the various acts of torture specified in the Charge, it is stated that the persons accused pulled out the teeth of the prosecutor with a puncer; cut off his tuft of hair; beat him with Cattans and Sticks until his body was covered with wounds and kept him in confinement with his arms bound behind him until the evening of next day when they released him. —

Adverting to the circumstances of wanton cruelty here detailed the Court of Fouzdaree Udalut consider it to be of the first importance that the persons concerned in the commission of these

atrocious

atrocious acts should be brought to trial, in order that they may suffer, on conviction, such degree of punishment as may be deemed commensurate with their offence and sufficient to deter others from the perpetration of the like enormities.—

It will be the duty of the Criminal Judge in the Zilla of Masulipatam, therefore, to reverse the proceedings held before him in the Case here referred to and to commit such persons as shall appear to have been concerned in the commission of the offence to take their trial before the Judge of the Court of Quarterly Sessions with whom it will remain also in the event of the conviction of the parties accused to adjudge such satisfaction to the aggrieved party as may be by him be considered to be equitable.—

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Northern Division by precept desiring him to communicate the same to the Criminal Judge in the Zilla of Masulipatam for his information and guidance.—

Sent. /Sent following Precept.A/

Read letter, dated the 10th instant, from

the Secretary to Government in the Judicial Department transmitting copy of letter from the Magistrate of Guntoor requesting that certain convicts sentenced to hard labour may be sent to work at that place.

/Here enter No 632/

The Court direct that copy of the letter from the Magistrate of Guntoor be forwarded to the Provincial Court of Circuit in the Northern Division, in order that the Judges of that Court may offer such observations as their local knowledge may suggest to them as to the expediency of removing any Convicts from the Zilla Jail of Masulipatam to the town of Guntoor for the purposes specified in the letter from the Magistrate

Ordered that extract of these proceedings, with copy of letter from the Magistrate of Guntoor, be sent to the Provincial Court of Circuit in the Northern Division for their information and guidance.—

Sent 21st /Sent following letter B/

Read letter, dated the 13th instant, from the 3d Judge on Circuit in the Centre Division stating that the Court of Circuit will proceed to Chittoor

19th November 1818.

Chittoor on 14th Instant.-

/Here enter No 633/

Read Return, dated the 7th instant,
from the 3d Judge on Circuit in the Western Division
to the Court's precept dated 21st ultimo ordering
communication to Magistrate of Canara of the
Court's observations on Case No 2 Canara Calendar
2d Sessions AD 1818, and of the remarks of the
Law Officers of the Foujdaree Udalut to the
Mooftee Mohummud Haneef.-

/Here enter No 630/

Read letter, dated the 14th instant
from the 3d Judge on Circuit in the Centre Division
With copy of Chengleput Calendar 2d Sessions AD

/Here enter No 629/

Read letter, dated the 7th instant, from
the 2d Judge of the Court of Circuit in the Western
Division,- With copy of North Malabar Calendar
3d Quarterly Sessions AD 1818.-

/Here enter No 628/5

6 Cases to be referred.

EVS
N.

J. M.

At a Court of the Foujdaree Udalut.-
Present,

Monday 23d November 1818. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

N
E.V.S

Read return, dated the 18th instant,
from the 2d Judge of the Court of Circuit in
the Centre Division,- to precept dated 12th
instant calling for futwas in Cases Nos 1, 5 and
9. Chittoor Calendar 4th Quarterly Sessions AD
1818.-

/Here enter No 631/

Together with the copies of the
futwas delivered in the above cases the second
Judge has transmitted the warrants issued by
him to the Criminal Judge as exhibiting the
grounds upon which the Prisoners were
ordered to give security, and in making return
to the Precept the Second Judge states "that
"the Law Officers of this Court have, apparently,
"never considered it requisite to state in their
"futwas, the degree of suspicion attaching
"to a Prisoner, unless it amounted to such
presumptive

"presumptive evidence of guilt, as to be held
"by them sufficient for conviction, and that
"the Judges have therefore considered it their
"duty, and to be the intent of Clause VI, Section
"II, Regulation XV A.D. 1803. in cases of
"acquittal of a Prisoner by the Law Officers
"in general terms, where strong suspicion
"appeared to them to attach to the Prisoner,
"to order him to be detained in custody until
"he should find sufficient security for
"his future good behaviour."

With regard to four of the Prisoners
referred to in the futwa, it appears, viz.
that they are persons of notorious bad character.
The sentence passed on these prisoners, there-
fore, is in conformity with the Court's circular
instructions
dated the 5th June 1815, in which the
Court of Sowdaree Adalut declared it to be
competent to the Judges of the Courts of
Circuit to require security in cases where
notorious bad character may be proved to
their satisfaction, whatever may be the
futwa of the Law Officers.—

The
remaining prisoners, who were pronounced
generally in the futwa to be not guilty
of the crimes laid to their charge, have been
ordered to give security on the ground of
strong suspicion appearing to attach to
them in the opinion of the Judge who
presided at the trial, who states, with
reference to the general sentence of acquittal
pronounced in the futwa, that the Law
Officers of the Court of Circuit in the
Centre Division have apparently never
considered it requisite to state in their
futwas the degree of suspicion attaching
to a prisoner unless it amounts to strong
presumptive evidence of guilt.—Suspicion of guilt in
whatever degree it may be considered
to attach to an accused party, can arise
only from the matters in evidence before
the Court of Circuit, whence it follows
that it is properly within the province
of the Provincial Law Officers, who is
to write at the end of the record of the
proceedings,

proceedings, the law applicable to the circumstances of each case, to specify in the future, whether any and what degree of suspicion may appear to attach to the Prisoner, and that unless such suspicion be declared in the future it is not competent to the Judge presiding at the trial to call upon the accused, on the alleged ground of strong suspicion, to give security for future good behaviour and appearance when required.-

The Court direct, therefore, that the Second Judge of the Court of Circuit in the Centre Division revise the proceedings held before him in cases Nos 4 and 5 of the Chittoor Calendar in communication with the Provincial Law Officer, who should be called upon to declare whether any and what degree of suspicion may be considered to attach to the Second Prisoner in case No 4 and to the third and fourth prisoners in case No

J.W.

23rd November 1878.-

No 5; and in the event of his being of opinion that suspicion attaches to them, to specify the same in the future relating to those two cases respectively.- The Court direct, also, that the observations which they have deemed it necessary to record respecting the duties of a Provincial Law Officer in the cases here referred to be communicated to the Mahummudan Law Officers of the Court of Circuit in the Centre Division for their information and future guidance.-

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Centre Division for his information and guidance.-

Sent 29th.

Sent following letter No

Read return, dated the 10th instant, from the 3d Judge on Circuit in the Western Division,- to precept dated 29th ultimo ordering communication to the Magistrate of Canara of the Court's observations on case No 3 Canara Calendar 2d Sessions AD 1878.-

No 4

E.C.S

Here entered No 634/5

F. U.

Thursday
26th November 1818

At a Court of the Foujdaree Udalut

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read return, dated the 26th Ultimo,
from the 3d Judge on Circuit in the Centre Division,
to the Court's precept dated 24th September ordering
transmission of the additional evidence required by
the Law Officers of the Foujdaree Udalut in
Case No. 52 Bellary Calendar 2d Sessions AD 1818.
(Here enter No. 580)

Read again letter,
dated the 31st August,
from the 3d Judge on
Circuit in the Centre
Division,- submitting
Case No 52 Bellary
Calendar 2d Sessions
AD 1818.-
(Here enter No 480)

The Court having maturely con-
sidered the Proceedings held before the Judge
on Circuit the futwa of the Provincial Law Of-
ficer and the futwa of the Cazee-ool-Coozat
and Mooftees of the Foujdaree Udalut, confirm
the said futwa of the Cazee-ool-Coozat and
Mooftees aforesaid, and, under the provisions of
Section XVII Regulation VIII of 1802, adjudge the
said Prisoner,

"Roodrah"

to suffer death by being hanged at the usual time
and

and place of execution.

And the Court acquitting the Prisoners,

2d "Gunacharry Buswah"

3d "Kotapah"

direct that they be released accordingly.-

sent 25th

/Sent following letter A/

Read letter, dated the 17th ultimo,

from the 3d Judge on Circuit in the Northern Division,- submitting Case No 11 Guntoor Calendar tried at the Special Sessions at Masulipatam.-

/Here enter No 574/

The Court having maturely con-sidered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Fouzdaree Udalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and, under the provisions of Clause Third, Section IV Regulation XX of 1803, adjudge the prisoners

"1st Fakeer Mahomed"
"2d Doodagoola Rutsam"
"3d Sahala Buswadoo"
"4th Chinta Yenta Vengadoo"
"5th Goorajula Amara Veeradoo"
"6th Yedma Narrapoo Peraidoo"
"7th Gidawada Mootadoo"
"8th Castoore Minniah"
"9th Battala Nuerador" and
"10th Doodagoola Cunnia"

to be imprisoned and kept to hard labour in irons on the

public Roads or other public Works for and during the period of fourteen years and then released.

And the Court adjudge the eleventh Prisoner,

"Shaik Emaum"

to be imprisoned and kept to hard labour in irons on the public Roads or other public works for and during the period of twelve Calendar Months and then released.-

And the Court acquitting the twelfth Prisoner,

"Toomala Venkata Raumadoo"

direct that he be released accordingly.-

Sent 25th

/Sent following letter B/

Read letter, dated the 26th September, from the 3d Judge on Circuit in the Northern Division,- submitting Trial No 7 of the Nellore Calendar for the 2d Sessions of 1818.-

/Here enter No 537/

The Court having maturely con-sidered the proceedings held before the Judge on Circuit the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and

and Mooftees of the Foujdaree Udalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and acquitting the first Prisoner,

"Suroovala Paupanaidoo"

direct that he be released accordingly.—

And the Court, adverting to the bad Character of the second Prisoner,

"Bandlapully Chenchoogandoo"

direct that he be released on producing Security for his future good behaviour and appearance when required, for and during the period of twelve Calendar Months.—

Sent following letter C/

The Court of Foujdaree Udalut observe that, during the examination of the Witnesses before the Criminal Judge, the parties were permitted to cross-question them ad libitum.— The Court direct that this irregularity be brought to the Notice of the Criminal Judge and that he be particularly enjoined in Cases not punishable by him under Section VII Regulation X of 1816, not to permit any cross interrogatories either on the part of the Accuser or the Accused.—

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division

2d F. C.

28th November 1818

Division by Precept desiring him to communicate the same to the Criminal Judge in the Zilla of Nellore for his information and future guidance.—

Sent following Precept D/

Read letter, dated the 10th instant, from the Magistrate in the Zilla of Masulipatam, transmitting Copy of a precept from the 2d Judge of Circuit, directing the dismissal of a peon on his establishment, for the consideration & orders of the Court.—

Here enter No 6407

The second Judge of the Court of Circuit having acquainted the Magistrate in the Zilla of Masulipatam that according to the evidence taken before him in Case No 7 of the Masulipatam Calendar it appeared that a person named Shramanum Sooboiah, said to be a Cutwall's peon, had tampered with the prosecutor and the witnesses with the evident intention of compounding felony, & directed that "in the event of his being "found to be a peon in any department under the "Magistrate of Masulipatam he should be forthwith "discharged from his situation as unfit to serve Government.

"Government."— The Magistrate reports that he has obeyed the orders of the Second Judge but submits for the consideration of the Court whether the Order passed by the Second Judge is in conformity with the Regulations.—

The Courts of Circuit do not possess any Control over the appointment and removal of the native officers of police; and it is obvious, that in issuing the order here referred to the Judge of the Court of Circuit in the Northern Division has exceeded the measure of his authority. The proper course to have been pursued by the Judge in the present instance was to bring the circumstances which might have appeared to him before the Court of Circuit to the notice of the Court in order that such measures might be adopted as that Officer as should appear to him to be necessary on an investigation respecting the matters charged against the individual referred to by the Judge of Circuit.—

The Court direct that the Second Judge of the Court of Circuit in the Northern Division be informed that the order passed by him touching the

question and proceed in the Case in conformity with the provisions of the subsisting Regulations.—

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Northern Division for his information and guidance.—

Sent 30th

/Sent following letter E/

Read Return, dated 16th instant, from the 2d Judge of the Court of Circuit in the Northern Division,— to the Court's precept dated 29th September ordering communication to the Criminal Judge of Rajahmundry of an omission in the Transcript of the Court's precept under date 31st July last

/Here enter No. 639/

In making return to the precept the Criminal Judge of the Second Judge in the Zillah of Rajahmundry states that the younger brother of the prisoner has entered into a Moochilka to the amount of five hundred Rupees to take proper care of the prisoner aforesaid and that the prisoner has been accordingly delivered into his charge.—

The deed which the prisoner's brother has been called upon to execute is not authorized by

the

the Regulations, and the Court of Foujdaree Udalut direct, therefore, that it be cancelled without delay.-

It was necessary only that the Criminal Judge should satisfy himself as to the ability and willingness of the prisoner's brother to take such care of the prisoner as should prevent the possibility of his doing any mischief.- But nothing in the Court's orders of the 31st. July last was intended to authorize the demand of a written obligation which does not possess any validity in law and for which the penalty could not be enforced, therefore against the party in the event of the non-performance of the conditions of the deed.-

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Northern Division, by Dawk, desiring him to communicate the same to the Criminal Judge in the Zilla of Rajahmundry for his information and guidance.-

Sent following Precepts

Read Return, dated the 3d. Instant from the 3d. Judge on Circuit in the Western Division to the Court's precept ordering communication to the

Sent 27th.-

Criminal Judges of North & South Malabar of the Court's orders respecting the confinement of a certain Lunatic.-

/Here enter No. 594/

Read Return, dated the 15th. instant, from the Provincial Court of Circuit in the Western Division,- to the Court's precept dated 4th. instant ordering communication to the Magistrate of Malabar of the Court's observations on the construction of Regulation XI of 1818.-

/Here enter No. 641/

Read Return, dated the 16th. instant, from the 2d. Judge of the Court of Circuit in the Western Division,- to the Court's precept dated 4th. Instant ordering communication to the Criminal Judge North Malabar of the Court's observations on Case No. 21 North Malabar Calendar - 3d. Quarterly Sessions AD 1818.-

/Here enter No. 643/ ED

R.A.

M

At a Court of the Foujdaree Udalut

Present,

Monday 30th November 1818.- Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter dated the 16th instant,

A
E.C.S from the Third Judge on Circuit in the Northern Division,- submitting his proceedings in an investigation of the state of mind of the prisoner in Case No. 7 Vizagapatam Calendar 2d Sessions A.D. 1818.-

(Here entered No. 647.-)

It appearing, from the evidence recorded in these proceedings, that the prisoner, Poondy Daulegandoo, committed the act laid to his charge while under the influence of insanity and that he has been labouring for many years under serious mental derangement;

The Court direct that the Criminal Judge in the Zillah of Vizagapatam be commanded to confine the prisoner in such place and manner, as, in attention to

to the public safety, shall to him appear expedient; and that he be further commanded to ascertain the progress which may have been made in the arrangements for the establishment of a Lunatic hospital at Masulipatam in order that the prisoner may be sent, either immediately or as soon as the necessary arrangements shall be completed, to the Criminal Judge in the Zillah of Masulipatam for the purpose of being confined in the general hospital ordered to be established at the Station for the reception of Lunatic prisoners in the Division.—

The Court of Foujdaree Adawlut observe that the several questions which were put in the course of the examination of certain of the witnesses in this case before the Court of Circuit as also in the examination of the parties and witnesses before the Criminal Judge, with the view of ascertaining the particulars specified in Clause Third Section XVIII Regulation

of 1872 have been inserted in the record.— This practice was expressly prohibited in the Circular orders issued by the Court of Foujdaree Adawlut on the 17th of January 1815.— To those orders the Court deem it therefore proper to direct the attention of the Third Judge, who will communicate the foregoing observations to the Criminal Judge in the Zillah of Vizagapatam and will be careful, in all instances where similar irregularities may come under his observation, to issue the necessary instructions in order to obviate their recurrence.—

Ordered that extract of these proceedings be sent to the Third Judge on Circuit in the Northern Division by precept desiring him to communicate the same to the Criminal Judge in the Zillah of Vizagapatam for his information and guidance.—

Sent 22d inst. (Sent following Precept &)

Read letter, dated the 6th instant, from

30th November 1818.

from the Third Judge on Circuit in the Northern Division, with copy of Vizagapatam Calendar 2d Sessions A.D. 1818.

to be perused.

(Here enter No. 646.)

A.A.

11

646

J. C.

At a Court of the Zoujdaree Adawlut

Present:

Thursday

3d December 1818. Andrew Scott Esqre } Judges.
Edward Croft Greenway Esqre }

11

It is the practice of many of the District Police Officers to record at length the several questions put to the parties and witnesses in cases which may be brought before them. Of the questions so recorded, it very frequently happens that some are not productive of any material information and it is obvious that, in all cases, the insertion of the interrogatories in detail must contribute unnecessarily to swell the bulk of the proceedings.

It will be the duty, therefore, of the Magistrates in the several Zillas, to explain to the District Police Officers within their respective jurisdictions that, in examining prosecutors and witnesses under the provisions of Section ~~XXVII~~ Regulation ~~XI~~ of 1816, it is not necessary to take down in detail

the

the several questions which may be put in the course of each separate examination but that it will be sufficient to reduce the substance of any material information which may be obtained from each deponent into the form of a statement, to be signed by the deponent and attested by the signature of the Police Officer.- The name of the person examined and the several particulars of his parentage, religion, cast, profession, age and place of residence should be written at the head of each examination.-

The foregoing remarks may be considered to be applicable to the examination of prisoners, except that, in cases wherein a prisoner may make a free and voluntary confession, the Police Officer by whom the inquiry may be conducted should be careful to reduce the declaration to writing in the words of the accused.-

In many of the trials which have been referred from time to time by the

final sentence of the Foujdaree Adalut, it has appeared in evidence before the Court of Circuit that the witnesses to the declarations of prisoners before a District Police Officer were not present during the examination of such prisoners and that, in some instances, persons have attested the declaration of a prisoner without being made acquainted either with the substance of the declaration or with the circumstances under which it may have been taken.

The Court of Foujdaree Adalut deem it necessary, therefore, to desire that the Magistrates in the several Zillas will particularly explain to the District Police Officers under their authority that, whenever they may receive a confession from a prisoner, it is indispensably requisite that the confession should be taken, according to the words of the Regulations, "in the presence" of the individuals who are to attest the examination.-

Ordered

3d December 1818.

Ordered that extract of the proceedings be sent to the four Provincial Courts of Circuit by precept desiring them to communicate the same to the Magistrates of the Zillas within their respective divisions for their information and guidance.-

sent 7th

At R.D. Sent following Precept A 220

7th

At a Court of the Foujdaree Adalut -

Present:-

Monday 7th December 1818. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges -

Read letter, dated the 21st October

EGS last from the 3d Judge on Circuit in the Western Division, - submitting trial No 25 South Malabar Calendar 2d Sessions A.D. 1818.

(Keep enter No 614.)

The Court having maturely considered the proceedings held before the Judge on Circuit the futwas of the Provincial Law Officer and the futwas of the Cazee ool Coozat and Mooftee of the Foujdaree Adalut confirm the said futwas of the Cazee ool Coozat and Mooftee aforesaid and, under the provisions of Clause Sixth Section II Regulation XV of 1803, direct that the first prisoner

Cheriam Toomben

be released on producing security for his future good behaviour and appearance when required -

and

And the Court acquitting the
Second Prisoner
Cherman Kotta Naiaddy Koorty
direct that he be released accordingly.-

/Sent following letter A/

The Sunkhtadar of the Emiad
taloob states in his report to the Zillay Court
that, on his receiving a statement from the Parbutty
Kaikaar Holey respecting the discovery of a human
head in a jungle, he wrote to the said Parbutty
and sent Kolkars to enquire into the matter,
that he afterwards sent for the head inhabitants
of the village and interrogated them and that,
in consequence of the statements given by
them both as to certain circumstances of a
suspicious nature, which had been brought
to their knowledge, and as to the declarations
made before them by Soomhen and Naiaddy
Koorty the prisoners in this case, he sent for
the persons aforesaid and examined them
accordingly.-

On receiving the report from
the Parbutty of the village it was the duty of the

the Sunkhtadar under Clause Second
Section XIII Regulation XI of 1816 to proceed
in person if possible to enquire into the
circumstances under which the head might
have been discovered, instead of sending
Kolkars who could not possess any
authority whatever to enquire into the
matter.-

The immediate attendance of the
Sunkhtadar on the spot might have enabled
him to obtain more satisfactory evidence
on several important particulars preceding
or attending the discovery of the head, and it
will be incumbent on the Magistrate, there-
fore, particularly to enjoin on this Police
Officer a strict observance of the provisions
of the Clause abovementioned in cases of
the nature therein contemplated, wherein
it must be considered to be generally ne-
cessary for the ends of justice that the
investigation should be conducted under
the personal Superintendence of the
District Police Officer.-

On

7th December 1818.

On the non-attendance of the Serishtadar, it was undoubtedly the duty of the Head of the village to conduct the investigation; but, referring to the interrogatories stated to have been put to the prisoner it will be proper to direct the attention of the Parbutty to Clause Second Section V Regulation XI of 1816 which declares that Heads of villages shall not receive confessions either verbally or in writting except in the trivial cases referred to in the preceding Clause of that Section.

The fifth witness for the prosecution stated in evidence before the Court of Circuit, in answer to a question proposed to him by the Judge presiding at the trial, that "the prisoners for two "or three days after their arrival in the station "did not admit the charge; and that the "witnesses and others then told the prisoner "that if they mentioned the truth nothing "would be done to them by the Serishtadar"

With reference particularly to

2/ L. Cs.

7th December 1818.

to the first part of this answer, which is confirmed by the report from the Serishtadar above referred to, the Court deem it proper to direct that the attention of the Serishtadar be called to Clause fourth Section XXVII Regulation XI of 1816 which declares that prisoners shall be forwarded to the Criminal Judge within forty eight hours if possible; and, referring generally to the answer of this witness, it is necessary to repeat the observation made in the Court's circular order of the 18th June 1817, that it is the duty of the District Police Officers to take down, in the first instance, the depositions of those persons who may be able to give evidence material to the case, and that the confession of a prisoner is to be received only in cases in which it may be free and voluntary. A confession made by prisoner after a detention of two or three days, under a previous assurance that "in the event of "their speaking the truth nothing should "be done to them by the Serishtadar" is obviously

obviously to be regarded as having been
obtained by undue means and as not possessing
therefore any validity in Law.-

Ordered that extract of these
proceedings be sent to the 3d Judge on Circuit
in the Western Division by Precept desiring
him to communicate the same to the Magistrates
in the Zillas of Malabar for his information
and guidance.-

(Sent following Precept B.)

Read letter, dated the 5th ultimo
from the 3d Judge on Circuit in the Western
Division, submitting case No. 26. South Malabar
Calendar 2d Session A.D. 818.-

(Here enter No. 627.)

The Court having maturely considered
the proceedings held before the Judge on Circuit
the futwas of the Provincial Law Officer and
the futwas of the Cazee ool Coozat and Mooftees
of the Zoujdaree confirm the said futwas of
the Cazee ool Coozat and Mooftees aforesaid
and acquitting the prisoners.

1st "Cholay Karry Boy."
2d "Hoobonmel Enemdar Hoonjeemul"
3d "Mordyella Kottingiel Kohiy"

directed

direct that they be released accordingly.-

(Sent following letter C.)

The evidence of the fourth, fifth,
sixth and seventh witnesses before the Court
of Circuit in this case is to the confessions
of the prisoners before the Parbutty of the
Nanney Kobilly, and the Court observe that
the Judge presiding at the trial refers to
the confessions so stated to have been made
before the Parbutty as tending, in common
with the confessions before the Sheristadar
of the Walloowanaad talook, to establish
the guilt of the prisoners.-

After the observations recorded
by the Court on Case No. 25 of the South
Malabar Calendar, it is unnecessary only to
to notice the designation of the person
before whom the above confessions were taken in order
to point out their illegality.- The Court
trust that the like irregularities will
not again escape the attention of the
Third Judge and that he will be careful
to bring to the notice of the proper authority
all

7th December 1818.

all instances of departure from the provisions of the regulations which may appear in the record of proceedings held before him at a Sessions of Gail delivery.-

In the letter accompanying the trial, the Third Judge observes that "the only difference in the account given "by the first and second prisoners in their "declarations before the Assistant Criminal "Judge is as to the person by whom the "deceased was stabbed."-

It appears from the record of the proceedings held in this case that the prisoners denied before the Assistant Criminal Judge that they had been concerned in the commission of the offence laid to their charge. The Court conclude, therefore, that the Serishtadar, and not the Assistant Criminal Judge, is the Officer alluded to by the Third Judge of the Court of Circuit.-

Ordered that a extract of these proceedings be sent to the Third Judge on Circuit in the Western Division for his information

3/ J.C.

7th December 1818.

information and future guidance and that he be by precept directed to communicate the former part of these proceedings to the Magistrate in the Zilla of Malabar in order that the latter Officer may enjoin the Serishtadar of the Walloowanaad taloon to call the attention of the Heads of villages within his district to the provisions of Clause Second Section V Regulation XI of 1816.-

Sent following Precept &c

Read return, dated the 5th ultimo, from the 3d Judge on Circuit in the Western Division,- to precept dated 23d October ordering transmission of the Persian translation of the proceedings in case No 1 Canara Supplemental Calendar 2d Sessions A.D. 1818.-

(Here enter No. 621.)

Read again letter, dated the 30th September last from the 3d Judge on Circuit in the Western Division,- submitting case No 1 Canara Supplemental Calendar 2d Sessions A.D. 1818.-

(Here enter No. 546.) Read

December 1818.

11

Read also remarks of the Sajg
=oil Cozgat and Mooftees of the Tovjdaree Adalut

(Here enter remarks)

The Court having maturely consid
the proceedings held before the Judge in Circu
the futwas of the Provincial Law Officers and
the futwas of the Cazee ool Cozgat and Mooftees
the Tovjdaree Adalut confirm the said futwas
the Cazee ool Cozgat and Mooftees aforesaid and
acquitting the prisoners

"Vellian Vittil Nailloo"

direct that he be released accordingly.

(Sent following Letter &)

The record of the proceedings
held in this case affords another instance, the
Court regret to observe, of inattention on
the part of the Judicial Officers to the
important provisions of the Regulations
relative to the crime of perjury.

In regard to the origin of this
prosecution, it appears from the documents
accompanying the record of the trial, that the
First Judge of the Court of Circuit directed
the Criminal Judge in the Zillah of Canara
Circuit on

7th December 1818 on the 16th February last to commit the accused
and two other persons to take their trial
before the Court of Circuit "for gross and
"wilful perjury in the depositions they had
"given on oath before the Criminal Judge
"of North Malabar and the Magistrate
"of Canara."

According to the words here
recited, the First Judge of the Court of Circuit
omitted altogether to state in which of the
two depositions given by the accused the
false swearing was supposed to have been
committed. The order taken in its literal
signification would seem to imply, indeed,
what can scarcely be supposed to have
been intended by the First Judge, that the
accused had been guilty of gross and wilful
perjury in each of the depositions in question.

The same defects which
characterize the outset, mark the progress
of these proceedings. The indictment does
not set forth in which of the two
depositions given by the accused the false
swearing

swearing was supposed to have been committed
neither does it contain any averment of
what was the truth and the fact, the proof
of which having been sworn to constitutes
the perjury charged. This omission does
not appear to have attracted the notice of
the Third Judge of the Court of Circuit who
presided at the trial, and the only evidence
taken before the Court of Circuit, as the
Law Officers justly observe in their finding
is that of two witnesses to the declaration
of the accused upon oath before the Magistrate
of Canara. So that, in point of fact, the
trial has been closed without having arrived
at the point, which should have constituted
the first step in the investigation of a charge
of perjury; viz. whether the accused has been
guilty of — or false swearing at all.

The Court deem it their duty
to direct the attention of the several Officers
mentioned in these proceedings to this Circular
orders dated the 9th January 1814 and particularly
to impress upon them the necessity of exercising

the utmost care and circumspection in the
preparation of charges or in the conduct of
trials for perjury. Inattention to any one
of the points noticed in the Regulations
must be fatal to a prosecution for perjury
and every failure in cases of this description
must be considered as tending to encourage
~~[illegible]~~ an evil which strikes at
the root of social order and frustrates the
attainment of the ends of public justice.

Ordered that extract of these
proceedings be sent to the First and Third
Judges of the Court of Circuit in the
Western Division for their information
and future guidance and that the Third
Judge be by precept enjoined to forward
the same to the Zillah Court of Canara; as
also to communicate to the Provincial
Law Officer, Mohummud Huneef, the
remarks of the Cazee ool Cozat and
Mooftee of the Foujdaree Adalut cautioning
him to exercise a greater degree of
vigilance.

At a Court of Foujdaree Udalut

Present,

Wednesday
9th December 1818. Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges.

Read letter, dated the 30th ultimo from the Third Judge on Circuit in the Western Division, - stating that he has received from the Assistant Criminal Judge at Seringapatam advice of there being only two Cases for theft to be brought for trial before the Court of Circuit and suggesting that they be transferred to North Malabar for trial.-

Here enter No. 663.-

The Court of Foujdaree Udalut having taken into consideration the peculiar circumstances referred to by the Third Judge on Circuit deem it expedient to direct that the persons committed for trial before the Court of Circuit by the Assistant or Criminal Judge in charge at Seringapatam be

9th December 1818. vigilance in the discharge of the duties of his office -

Sent following letters J/

Read letter, dated the 30th ultimo from the 2d Judge of the Court of Circuit in the Centre Division, - acknowledging receipt of letter dated 25th ultimo, and stating that the 1st Judge will obey the orders therein contained as he is about to proceed on leave of absence to the Presidency.-

Here enter No. 652.

Read letter, dated the 30th ultimo from the 1st Judge of the Court of Circuit in the Southern Division, - forwarding copy of a letter from the Criminal Judge of Tinnevelly reporting that the prisoners in Cole No 14 Tinnevelly Calendar 2d Sessions A.D. 1818 have been released on security.-

R.T.

Here enter No. 656. p. 25

Decem

1st December 1818. vigilance in the discharge of the duties of

his office.-

Sent following letters &c

Read letter, dated the 30th ult.

from the 2d Judge of the Court of Circuit in

the Centre Division,- acknowledging receipt

of letter dated 25th ultimo, and stating that the

1st Judge will obey the orders therein contained

as he is about to proceed on leave of absence

to the Presidency.-

(Here enter No. 652.)

Read letter, dated the 30th ultimo

from the 1st Judge of the Court of Circuit

in the Southern Division,- forwarding copy

of a letter from the Criminal Judge of Tinnevelly

reporting that the prisoners in Calendar No. 14

Tinnevelly Calendar 2d Sessions A.D. 1818

have been released on security.-

R.T.

(Here enter No. 656.)

J. C.

At a Court of the Foujdarey Adalut

Present,

Wednesday 9th December 1818.- Andrew Scott Esqre } Judges.
Edward Croft Greenway Esqre }

Read letter, dated the 30th ultimo

from the Third Judge on Circuit in the Western

Division,- stating that he has received from

the Assistant Criminal Judge at Seringapatam

advice of there being only two Cases for

theft to be brought for trial before the

Court of Circuit and suggesting that they

be transferred to North Malabar for

trial.-

Here enter No. 663.-

The Court of Foujdarey Adalut

having taken into consideration the peculiar

circumstances referred to by the Third Judge

on Circuit deem it expedient to direct

that the persons committed for trial before

the Court of Circuit by the Assistant

Criminal Judge in charge at Seringapatam be

be brought to trial before the Court of Circuit at Tellicherry. It will be the duty of the Assistant Criminal Judge in charge at Seringapatam, under Section III Regulation VII of 1818, to send the prisoners with the proceedings respecting them to the Criminal Judge in the Zillah of North Malabar with whom it will remain to bring the prisoners to trial in conformity with the provisions of the general regulations.-

Ordered that extract of these proceedings be sent to the third Judge of Circuit in the Western Division to the Criminal Judge in the Zillah of North Malabar and to the Assistant Criminal Judge in the Zillah of Seringapatam for their information and guidance respectively.

Sent following letters &c.

Read letter, dated the 6th instant from the Secretary to Government in the Judicial Department, stating that it was the intention of Government in passing Regulation IX of 1816 to authorize Magistrates to delegate the whole or any part of their duty to their Assistants and desiring that a Regulation may be framed to give effect to that intention.-

/Here enter No. 642./

In the accompanying draft the Court have endeavoured to obey the orders of the Right Honorable the Governor in Council by vesting the Magistrates with full authority to transfer the whole or any part of their duties as Magistrates to their Assistants: indeed nothing more appeared to be necessary for this purpose than to remove the restriction imposed by Section XLI of Regulation XI 1816 which, by limiting the exercise of the minor duties of the Police by the Assistant Magistrates necessarily precluded their exercising of superior jurisdiction when absent from the immediate Superintendence and control of the Magistrate.-

Of the extent to which the provisions

provisions of this regulation will be acted upon in transferring the grave duties of the Magistracy to the Assistants and of the consequences likely to result from it, some estimate may be formed from the information which the Court have recently had the honor to lay before the Right Honorable the Governor in Council. It is not my therefore to enter on the discussion here. But it may be proper to notice that the cautionary declaration contained in the letter from the Secretary to Government with regard to the "sound discretion" which Magistrates will be expected to exercise the power of delegation has not been inserted in the Regulation, because the responsibility in this case is declared to be the same as that under which they discharge their other duties and a particular reference to it in this instance, therefore could not serve any Essential purpose.

Ordered that the Draft of the Regulation

J.H.

9th December 1818.

and 10th

Regulation and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.—

(Sent following letter B.)

Read letter, dated the 30th ultimo. from the Second Judge of the Court of Circuit in the Northern Division,—with copy of Masulipatam Calendar 4th Quarterly Session No. 1818.

(Here enter No. 660.)

The Second Judge has forwarded copies of the futwas delivered in Nos. 9 and 12 of the Calendar wherein the prisoners have been declared, on the ground of strong presumption / Zinnn-i-ghalib and Shookhuk-o Shuddeed / to be liable to Kohoottut. In both cases the Second Judge has ordered the prisoners to be released on producing Security for their future good behaviour and appearance when required.—

The Court conclude that the cases of the prisoners aforesaid were considered by

9th December 1818.

by the Judge to come within the provis
Clause Sixth Section II Regulation XI
That Clause, however, relates to cases
which the suspicion of guilt may
amount to that degree of strong pre
held sufficient conviction, and can
be held to be applicable, therefore, to
cases recited in the Futwas, in which
prisoners are declared to be convicted
"strong presumptive proof", and in w
it was competent to the Judge
at the trial, provided he consider
crimes to be established against th
to proceed in conformity with Cl
Second and Third of the Section above
is
Ordered that copies of
proceedings be sent to the Second J
the Court of Circuit in the North
Division for his information and
guidance.—

Sent following

Copies—

J. 16.

At a Court of the Foujdaree Adalut

Present,

Wednesday
16th December 1818.

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter, dated the 30th ultimo,
from the 2d Judge of the Court of Circuit in
the Northern Division,—forwarding report on
the 4th Quarterly Sessions of 1818.—
(Vide enter No. 662)

The first subject noticed by the
Second Judge of the Court of Circuit relates to the
employment and present condition of the prisoners
who have been sent from Guntoor and Rajah-
=mundry to be employed on the road of com-
=munication between the Port and Pettah of
Masulipatam.— Of eighty prisoners sent
from Rajahmundry, it appears that fourteen
have died within the short term of twelve
months, while it is shewn that during the
same period there have been only five casualties
among one hundred and thirty seven prisoners
who were sent from the Zilla of Guntoor.—

Advertising

Adverting to the heavy mortality among the convicts from Rajahmundry and to the probable causes thereof, as noticed by the Criminal Judge in the Zillah of Masulipatam, the Court of Foujdaree Adalut deem it imperative upon them to direct that the prisoners here referred to be sent back without delay to the Zillah of Rajahmundry - On receiving an answer from the Court of Circuit in the Northern Division to the reference which was made to them on the 16th ultimo respecting a communication to Government from the Magistrate of Guntoor, the Court will be prepared to issue the necessary orders as to the eventual disposal of the Convicts forwarded from that part of the country.-

The suggestion of the Second Judge repeated in his present letter, with regard to the use of chains instead of bar irons, was brought to the notice of the Right Honorable the Governor in Council in the Court's proceedings dated 31st. August last, on the Second Judge's Circuit Report for the first Sessions of 1818.

The opinion of the Second Judge that the Convicts should be exclusively employed under the Civil authority is in strict conformity with the provisions of the Regulations.- Whenever it may be deemed expedient that the convicts should be employed on Military works, every requisite information as to the nature and description of the work should be communicated by the Superintending authority to the Criminal Judge, with whom it will remain to issue the necessary orders for the employment of the convicts.-

The next subject noticed by the Second Judge has relation to the management of the Zillah Jail, a matter in which it is competent to the Judge of the Court of Circuit, visiting the jail, to issue such orders as may appear to him advisable under Section XXXII Regulation VII of 1802, as modified by Section XXXIX Regulation X of 1816.-

The Court of Foujdaree Adalut discharge a gratifying part of their duty in bringing to the notice of the Right Honorable the Governor in Council the favorable testimo-

borne by the Second Judge of the Court of Circuit to the manner in which Mr. Robertson, the Assistant Magistrate of Masulipatam, has discharged his police duties and particularly to the exertions of that Gentleman during the prevalence of the Epidemic at the city of Masulipatam—

The Court proceed to the consideration of the precepts and returns which accompany the report from the Second Judge of the Court of Circuit—

The precepts dated the 17th. of October and 9th. of November respectively relate principally to the acting police Ameen of Masulipatam, the nature of whose situation the Magistrate was called upon to explain. In return to the precept dated the 17th. October the Magistrate states that the appointment of Police Ameen had been made by the Commissioners of internal administration; that as the Ameen was not in any way concerned in the collection of the public revenue he was not ex officio a Head of Police, but that his office was expressly

J. M.

16th. December 1818

expressly provided for by Section XL Regulation XI of 1816; that, under the authority vested in him (the Magistrate) by that Regulation he had directed that all cases, except in very trifling instances of abusive language &c., should be sent to him, and, lastly, that Subbanna Venkat Row was officiating for the Ameen who had obtained Leave of absence to proceed to the Northward—

In the precept dated the 9th. of November the Second Judge observes "that the Ameen "of police referred to can only be invested "with the authority of a Head of a village "with the powers of a Head of Police "ex-officio; and that the Magistrate, ex "denying his proposing the situation of a "Head of the police should confine his "duties to that of a Head of the village."—

The Second Judge has erred in stating that the Ameen of police could only be invested with the authority of a Head of a village or with the powers of a Tahsildar "ex-officio," inasmuch as it would be a contradiction in terms to

to say that a Magistrate is authorized to invest any person with authority, which that person is at the same time declared to possess in virtue of his office." The Magistrate of Masulipatam does not deny that the person here referred to possessed the situation of Head of police / ~~as Tahsildar, he must be entitled by this declaration~~ / but stated that he was not "ex-officio" a Head of Police and therefore, as seems inferrible from the spirit of his return, that he had conferred on him the powers of a Tahsildar under Section XL Regulation XI of 1816.

Having premised these observations on the point at issue between the Second Judge and the Magistrate, the Court have to remark that the general order given by the Magistrate to the police Aumeen to refer all Cases to him / the Magistrate / with the exception of certain specified cases of a trifling nature is incompatible with the permission which he had previously given to him to exercise the duties of a Tahsildar. It appears to the Court of

Foujdaree Adalut that the appointment of an individual on a salary of thirty five Pagodas a month, for the almost exclusive purpose of apprehending offenders and sending them to the office of the Magistrate involves an expence greatly exceeding the importance of the object proposed by such appointment, while it may be deemed very questionable whether, on the supposition of the Magistrate or his Assistant being generally resident at the Zilla Station, there should be more than one office to which persons may repair to seek redress of grievances. The Court of Foujdaree Adalut deem it proper to direct, therefore, that their sentiments on this head be communicated to the Magistrate, in order that he may adopt such measures or submit such further observations on the subject as he may consider to be necessary.

Annexed to the correspondence with the Magistrate of Masulipatam are Abstract Statements of heinous crimes ascertained to have been committed within the

the Zillah of Chandulipatam during the Second and Third quarters of the present year, on an examination of which it appears, as remarked by the Second Judge in the concluding paragraph of his letter, that of one hundred and eighty persons supposed to have been concerned in acts of robbery without murder during the Second quarter of 1818 only one person was apprehended, and that of fifty supposed to have been concerned in committing an act of the like nature during the third quarter of 1818, not one person had been brought to justice—

On perusing the several precepts issued by the Second Judge to the Magistrate of Guntoor, the Court have remarked, with concern, the many irregularities, chiefly in the proceedings of the police officers, which attracted the notice of the Court of Quarterly Sessions.— Trusting that the orders which have been issued by the Second Judge will prevent the recurrence of these irregularities the Court will restrict their observations to such passages only as involve

involve a difference of opinion between the Second Judge and the Magistrate or appear, for obvious reasons, to merit the attention of the Right Honorable the Governor in Council.—

In commenting upon No. 12 of the Calendar of persons committed for trial before the Court of Circuit, the Second Judge observed that the report to the Criminal Court was signed by the assistant to the Daroghas of the division of Collecparra and enjoined the Magistrate to caution the Head of police against delegating his authority in future; and in making returns to the precept the Magistrate requested to be informed whether, in the event of the head of police being absent from his station, his Gundadgar is to forward the prisoners to the Criminal Judge or detain them until the return of the Head of the police. This question was fully considered by the Court of Foujdaree Adalat in their proceedings dated the 13th July last and to those proceedings the Court deem it

it proper to refer the Magistrate of Guntoor to whom it is competent, in all cases of emergency, to make the same provision for the discharge of the duties of the office of Tahsildar as is there enjoined in cases where a Tahsildar may be prevented by indisposition from discharging the duties of his office.

The remarks recorded by the Second Judge on No. 16 of the Calendar of persons discharged by the Criminal Judge, wherein the prisoners had been forwarded by the "Collector of Guntoor" to the Zilla Station on a charge of affixing a mark on some Cloth similar to the Company's Chop, are in conformity with the Regulations since nothing in Section XLIV Regulation IX of 1816 can be construed to supersede the rule contained in Section VIII Regulation X of 1816.

The representations made by the Magistrate of Guntoor with regard to the insufficiency of his office establishment and the inefficiency of the establishment of police officers under his authority are altogether general and indefinite. It will be for the Magistrate to submit, in a specific shape, such suggestions in this respect as he may consider to be necessary for the consideration and orders of the Right Honorable the Governor in Council.

It is observable that, in the returns made by the Magistrate of Guntoor to the precepts of the Second Judge, the Magistrate frequently adverts to the abolition of the Zilla Court of Guntoor in terms which the Court of Foujdaree do not consider to be deserving of the particular attention of Government. In making return to the precept dated the 13th of November in which he had been called upon to explain the cause of the non-attendance of the prosecutor and witnesses in a certain case at the Zilla Station, the Magistrate stated that circular orders had been issued

issued to his police officers on the subject,
"but concludes with expressing a hope "that
"measures may be taken which will make
"these poor people less apprehensive than
"they are at present of the long journeys
"imposed on them, as he the Magistrate
"entertains apprehensions that the Regulations
"will oblige many of the Ryots to remove
"their habitations to the territories of His
"Highness the Nizam."- Still more remarkable
are the words of the Magistrate in his return
to another precept issued by the Second Judge
on the same day the 13th November, for
they amount to a plain declaration that
he has occasionally felt himself urged
by motives of humanity, to deviate from
the Regulations prescribed for his guidance
The passage to which the Court allude is
as follows- "The Magistrate must here
"acknowledge that since the Criminal
"Court has been removed to Masulipatam
"he has frequently, to ameliorate the condition
"of the suffering Prosecutors and witnesses,

4/

J. C.

16th December 1818

"determined on, and punished offences which
"according to the strict letter of the Regulations,
"should have been brought to the notice of
"the Criminal Judge- the Magistrate has
"however the consolation of knowing that
"in these cases he has acted conscientiously,
"and has rescued the innocent from loss-
"and he sincerely hopes that the 2d Judge
"will exert his influence, to remove the
"grievances under which the Guntoor in-
"habitants labour in bringing forward
"the plunderers of their property, arising
"solely from the distance of the seat of
"Criminal Justice."

It remains only that the Court
of Foujdarie Adalut should notice the
abstract statement of heinous crimes forward-
-ed by the Magistrate of Guntoor.- Although,
as the Second Judge observes, it appears
by the Calendars that numerous heinous
offences have been committed in Guntoor,
the abstract statement is confined to
persons apprehended and delivered to the

Criminal

Criminal Judge for a single crime, and even in this particular case it is to be observed that the report noticed only the number of persons apprehended and delivered over to the Criminal Judge, without noticing the number supposed to have been concerned in the commission of the crime.- The Court desire therefore, that the Magistrate of Guntoor may be called upon to submit an amended Statement prepared in conformity with the provisions of Section XXX Regulation IX of 1816.-

Ordered that extract of these proceedings be sent to the Second Judge of the Court of Circuit in the Northern Division by precept desiring him to make the necessary communications to the Criminal Judge in the Zilla of Masulipatam, the Criminal Judge in the Zilla of Rajahmundry the Magistrate in the Zilla of Masulipatam and the Magistrate of Guntoor for their information and guidance respectively.

Sent 18th

(Sent following Precepts)

Ordered

16th December 1818.

Ordered also that the report and extract of these proceedings be sent to the Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council.-

21st Inst.

(Sent following letter &)

Read letter, dated the 5th instant, from the Criminal Judge in the Zilla of Madura,- forwarding copy of correspondence with the Magistrate on the subject of the construction of a Regulation.-

(Here enter No. 669.)

Read also letter, dated the 5th instant, from the Magistrate in the Zilla of Madura, forwarding copy of correspondence with the Criminal Judge regarding the construction of a Regulation.-

(Here enter No. 671.)

The matter at issue between the Criminal Judge and the Magistrate appears to be as follows.- The Police Officer of Shevagunga having investigated a case of considerable

16th December 1818

considerable affray between the Right and Left hand Castes sent the parties, together with his report, to the office of the Magistrate. The Magistrate being of opinion, on a perusal of the report, that the acts charged were of a nature to come under the head of "heinous "offence" directed the police officer to forward the parties and his proceedings to the Zilla Court.- From the Zilla Court the case was returned to the Police Officer on the ground that the crime charged did not come within the description of heinous offences specified in Clause First Section XXVII Regulation XI of 1816.- The Police Officer reported this circumstance to the Magistrate and the correspondence which ensued between the Magistrate and the Criminal Judge is Submitted by those Officers respectively for the consideration of the Foujdaree Adawlut.

According to the foregoing summary it is to be presumed that the Police Officer referred the case to the Magistrate in the first instance under the impression that

5/ J. M.

16th December 1818.

that the offence laid to the charge of the prisoners was not of the description of offences contemplated in Clause First Section XXVII Regulation XI of 1816; and as an assault or affray, intrinsically so considered, cannot be properly designated a "heinous offence," it is to be lamented that the Magistrate did not, instead of returning the case to the Police Officer, instituted an enquiry into the circumstances of the case and eventually sent the prisoners to the Criminal Judge, if found to be deserving of more severe punishment than he is authorized to adjudge under the Regulations.-

On the case being referred to however to the Criminal Judge it was undoubtedly his duty to proceed to enquire into the circumstance of the charge; and should it have appeared, at the close of the enquiry, that the prisoners were liable only to the inferior degree of punishment specified in Section XXXII Regulation IX of 1816, it would have been competent to him to communicate such his opinion to the

Magistrate

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Magistrate, with whom it would have remain to issue the necessary orders for the information and future guidance of the Police Officers.

The Court direct that their observations be communicated to the Criminal Judge and the Magistrate through the Judge of the Court of Circuit, it being desirable that all references from the Judicial authorities in the Zillas, in cases of difference of opinion on the meaning and construction of the Regulations, as well as the orders thereon, should pass through the Court of Circuit of the Division.

Ordered, that extract of this proceedings be sent to the Court of Circuit in the Southern Division by precept directing them to communicate the same to the Criminal Judge and the Magistrate in the Zillas of Madura for their information and future guidance.

Sent 18th

Sent following Precept &c.

Read letter, dated the 9th ultimo, from the third Judge on Circuit in the Western Division, reporting the completion of the trials at Calicut and forwarding correspondence with the Acting Criminal Judge respecting 3 Cases postponed to the next Sessions.

50

M

R A

(Here enter No. 665.)

Read again letter, dated the 6th ultimo, from the 1st Judge of the Court of Circuit in the Southern Division, stating that the proceedings in cases referrible to the Court will be transmitted with as little delay as possible.

(Here enter No. 616.)

Five weeks having elapsed since the receipt of the foregoing letter and the records of the proceedings held in the several cases referred to not having been received;

The Court of Foujdaree Adalut deem it necessary to direct that the First Judge of the Court of Circuit in the Southern Division be by precept enjoined to send up the records of the proceedings held before him in case No. 2 of the Verdachellum Calendar; in cases Nos. 1 and 8 of the Salem Calendar and in cases Nos. 8 and 11 of the Tinnevelly

16th December 1818.

Sincerely Calendar for the 2d Sessions of 1818. within seven days from the date of the receipt of the precept.—

Ltr 11th

Rd. Sent following Precept &c

Read return, dated the 2d instant from the 2d Judge of the Court of Circuit in the Northern Division, to precept dated 26th October ordering communication to the Criminal Judge of Rajahmundry of the Court's direction that the deed executed by the brother of a certain insane prisoner be cancelled—

(Here enter No. 672.)

Copies

H. U

At a Court of the Sowdaree Udalut

Wednesday 23d December 1818

Present

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter, dated the 16th Ultimo, from the Provincial Court for the Centre Division, with extract from the Court's proceedings on a petition in a matter of treasure trove.—

(Here enter No. 654)

The Case here submitted for the determination of the Court not being provided for in the Regulations, the Court are of opinion that the Magistrate should report the circumstances to Government and request instructions as to the course to be pursued in the event of no claim being preferred to the treasure stated to have been discovered.— Such claim, it is to be observed, can be preferred only before a Court of Civil Judicature.—

The Court have to remark, however, with reference to the Extract from the Head Assistant Magistrate's proceedings dated the 12th of September last that as far as it is to be collected from the papers before

before the Court Lutchmana Sing appears to have been sentenced by the Head Assistant Magistrate to 2 months imprisonment on the ground of the evidence taken before the Native Officer of police.— It is scarcely necessary to add that if the fact be as here supposed the sentence passed by the Head Assistant Magistrate was wholly unauthorized by the Regulations.

It being desirable that an uniform principle should be established with regard to the course to be pursued on the discovery of hidden treasure the Court will take an early opportunity of preparing and submitting the necessary rules for this purpose for the consideration of the Right Honourable the Governor in Council.—

Ordered that Extract of these proceedings be sent to the Court of Circuit in the Centre Division by precept desiring them to communicate the same to the Magistrate in the Zillah of Chittoor for his information and guidance.—

Sent 24th

Sent following Precept A

Read letter, dated the 9th instant from the Third Judge on Circuit in the Northern Division forwarding the proceedings held in a Case before the Magistrate of

of Vizagapatam under Clause Third Section XL. Regulation IX of 1816.—

Here enter N° 679

The Third Judge of the Court of Circuit states that the proceedings of the Magistrate of Vizagapatam are submitted under Clause Third Section XL. Regulation IX of 1816 to the Court of Foujdaree Udalut "for their orders thereon."—

On reference to the Clause of the Section here recited the Third Judge will observe that whenever reports may be made by a Judge of Circuit to the Foujdaree Udalut, either in cases of omission or refusal on the part of a Magistrate to obey the orders of a Judge of Circuit or in cases wherein it shall appear to a Judge of Circuit that a Magistrate has been guilty of neglect or misconduct in the discharge of his duty, it becomes imperative on the Court of Foujdaree Udalut to submit the Case for the information and orders of Government.— Unless the Third Judge shall be of opinion that the act of the Magistrate referred to in these proceedings is to be considered as evincing "neglect or misconduct in the discharge of his duty" such as renders it deserving of the

the notice of Government, it will be competent to the Third Judge to pass such orders as he may deem proper under Clause Second Section XI of the Regulation above quoted.—

The Court direct, therefore, that the papers be returned to the Third Judge of the Court of Circuit in the Northern Division, in order that he may revise the proceedings held before him in this Case in strict attention to the provisions of the Regulations.—

Ordered that extract of these proceedings be sent to the Third Judge of the Court of Circuit in the Northern Division for his information and guidance.

Sent 24th to

/Sent following letter B/

Read letter, dated the 14th instant, from the Provincial Court of Circuit in the Centre Division, transmitting translation of the Proceedings in Cases Nos. 9 & 14 Chittoor Calendar 2d Quarterly Sessions 1813 & 16 3d Quarterly Sessions A.D. 1813.—

/Here enter No. 675/

Read again letter, dated the 2d September, from the Provincial Court of Circuit in the Centre Division,— forwarding Copies of 13 Warrants issued by the late 3d Judge ordering imprisonment apprentice for periods not sanctioned by the Regulations.—

/Here enter No. 524/

The Court of Foujdaree Adalut &c having considered the proceedings held in Cases &c 9 of the Chittoor Calendar for the Second Quarterly Sessions of 1812 and &c 16 of the same Calendar for the Third Quarterly Sessions of 1813, together with the Futwas delivered by the Provincial Law Officer and the Sentences passed by the Judge who presided at the trials, are of opinion that the punishment adjudged against the prisoners in these two Cases does not exceed the measure warranted by the Regulations, inasmuch as the acts of which these prisoners were convicted must be held to subject them to the operation of Clause First Section III Regulation XV of 1803.—

On perusing the proceedings held in Case No 14 of the Chittoor Calendar for the Second Quarterly Sessions of 1812, together with the Futwas delivered by the Provincial Law Officer, it appears that each of the prisoners was convicted of simple theft, and it is obvious, therefore, that the punishment of

the notice [illegible]

23d December 1818

of imprisonment for eight years adjudged against
last previous respectively is not authorized by the
legislature - the sentence passed by the late Third
Judge of the Court of Circuit in this Case not being
conformable to law the prisoners are entitled to
be set at liberty -

Ordered that extract of these
proceedings be sent to the Court of Circuit in the
Centre Division by precept desiring them to com-
municate the same to the Criminal Judge in the
Zillas of Chittoor for his information and guidance.

Read return, dated the 16th instant,
from the Provincial Court of Circuit in the Southern
Division, - to the Court's precept dated the 3d instant
ordering communication to the several Magistrates
within their Jurisdiction of the Court's observations
relative to examinations taken by District Police
Officers. -

(Here enter No. 678.)

Read return, dated the 4th instant,
from the Judges of the Provincial Court of Circuit
for the Centre Division - to precept dated 3d
Instant,

Instant ordering communication to the Magistrates
within their Jurisdiction of the Court's observations
on the practice of District Police Officers in
taking depositions. -

(Here enter No. 681.)

Read return dated the 4th instant,
from the Judges of the Provincial Court of
Circuit in the Western Division, - to precept
dated 3d Instant ordering communication to
the several Magistrates within their Jurisdictions
of the Court's orders relative to examination
and confessions taken by District Police
Officers. -

(Here enter No. 688.)

At a Court of the Foujdaree Udalut

Present

Monday
28th December 1818

Andrew Scott Esqre
Edward Croft Greenway Esqre } Judges

Read letter, dated the 24th October
from the 2d Judge on Circuit in the Northern Division
Submitting trial No 11 of the Rajahmundry Calendar
for the 1st Sessions AD 1818.

/Here enter No 597/

The Court having maturely considered
the proceedings held before the Judge on Circuit the
futwas of the Provincial Law Officer and the futwas
of the Cazee-ool-Coozat and Mooftees of the
Foujdaree Udalut confirm the said futwas of the
Cazee-ool-Coozat and Mooftees aforesaid and
acquitting the Prisoner,

"Ramaswamy Naidoo"

direct that he be released accordingly.

Sent following letter No
In the examination of the prisoner
before the Criminal Judge the Court remark several
questions which do not appear to bear in any degree
on

N.D. 4/1819

in the matter at issue. Several Questions were also put to the accused by the Government Vakeel, and, in the examination of the witnesses for the prosecution, free permission would seem to have been given to the Vakeel for the prosecution and to the prisoner to propose cross-interrogatories.—

The Court direct that the several circumstances here mentioned be brought to the notice of the Criminal Judge in the Zillah of Rajahmundry and that he be enjoined, in cases where the prisoners may not be punishable by him under Clause second Section IX Regulation X of 1816, not to permit the witnesses to be cross-examined by the Accuser or the Accused.—

The proceedings of the acting Magistrate are lengthened unnecessarily in this case by the insertion of the questions which were put to the witnesses for the purpose of ascertaining the several particulars of their names, parentage, religion, cast profession, age and place of residence; and the same practice has been observed in other records of trials referred to the Foujdaree Adalut.— The Court deem it proper to desire, therefore, that the four Courts of Circuit will enjoin the Magistrates within their several Divisions to specify the particulars above referred

referred to at the head of the examination of the party or witness, in the manner pointed out in the Courts circular orders dated the 17th January 1815.—

The Court noticed, in their proceedings dated the 1st of April last, the irregularity of the references made by the Criminal Judge to the Mohammudan law Officer of the Zillah Court.— It is not necessary, therefore, in this place to record any observations on the references in question.—

It is the duty of the Court to point out to the notice of the second Judge who presided at the trial some instances in which the questions proposed by him to the witnesses are liable to objection.— It is principally in the examinations of the fifteenth, the twenty third, the twenty eighth and twenty ninth witnesses for the prosecution before the Court of Circuit that the interrogatories are open to remark, and among the several questions so considered to be objectionable the Court will select the following:— "Did not Aminanah tell you why he received the sum of 3500 Rupees?" "Were you and Aminanah had inspected

on the matter at issue. Several Questions were also put to the accused by the Government Vakeel, and, in the examination of the witnesses for the prosecution, free permission would seem to have been given to the Vakeel for the prosecution to the prisoner to propose cross-interrogatories.—

The Court direct that the several circumstances here mentioned be brought to the notice of the Criminal Judge in the Zillah of Rajahmundry and that he be enjoined, in cases where the prisoners may not be punishable by him under Clause second Section IX Regulation X of 1816, not to permit the witnesses to be cross-examined by the Accuser or the Accused.—

The proceedings of the acting Magistrate are lengthened unnecessarily in this case by the insertion of the questions which were put to the witnesses for the purpose of ascertaining the several particulars of their Names, parentage, religion, cast profession, age and place of residence; and the same practice has been observed in other records of trials referred to the Fouzdaree Vakeel.— The Court deem it proper to desire, therefore, that the four Courts of Circuit will enjoin the Magistrates within their several Divisions to specify the particulars above referred

referred to at the head of the examination of the party or witness, in the manner pointed out in the Courts circular orders dated the 17th January 1815.—

The Court noticed, in their proceedings dated the 1st of April last, the irregularity of the references made by the Criminal Judge to the Mohammudan law Officer of the Zillah Court.— It is not necessary, therefore, in this place to record any observations on the references in question.—

It is the duty of the Court to point out to the notice of the second Judge who presided at the trial some instances in which the questions proposed by him to the witnesses are liable to objection.— It is principally in the examinations of the fifteenth, the twenty third, the twenty Eighth and twenty ninth witness for the prosecution before the Court of Circuit that the interrogatories are open to remark, and among the several questions so considered to be objectionable the Court will select the following:— "Did not Ummanah tell you why he received the sum of 3500 Rupees?" "Were you and Ummanah had inspected

28th December 1818.

inspected the amount did not Ammanah say why the sum of 3500 Rupees was paid?" Did not Ammanah tell you that he had paid Money to Ramaswamy Naidoo?" These and other questions of a like nature were put to the twenty thirdwitness; the last of the interrogatories here recitedwas repeated on the examination of the twenty eighth witness the Court remark the following question — "It appears by the deposition of Soobanadry that the money was paid by your means to Ramaswamy Naidoo; what do you know about it?"

The Court are satisfied that it is requisite only to recite these questions — the latter of which, besides its manifest tendency to suggest a particular answer, expressly assumes a knowledge of the fact to which the witness was required to depose — in order to shew their impropriety and to impress upon the second Judge the necessity of proposing questions to witnesses in such general terms as may bring forth all the information they possess and lead to a discovery of the truth. —

The Court will only notice, in addition to

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to the questions above mentioned, the following interrogatory proposed by the Judge to the twenty third witness for the prosecution — "Whose property do you think the sum of 3,500 Rupees became which was paid by means of Soobanadry?" The impropriety of this question is sufficiently apparent in that it tended only to elicit a surmise which could be nowise material to the issue of the Case.

Ordered that extract of these proceedings be sent to the second Judge of the Court of Circuit in the Northern Division for his information and future guidance, and that he be by precept enjoined to make the necessary communication to the Criminal Judge in the Zillah of Rajahmundry for the information and future guidance of that Officer. —

(Sent following Precept B)

Ordered also that extract from these proceedings be sent to the four Courts of Circuit by precept desiring them to make the requisite communication to the Magistrates within their several divisions for the information and guidance of those Officers. —

(Sent following Circular precept C)